

Intimations.

EYE-SIGHT.

NOTICE

MR. N. LAZARUS, Oculist-Optician, of LONDON and CALCUTTA, may be consulted for SPECTACLES at the HONGKONG HOTEL (Room No. 139).

ONLY UNTIL SATURDAY.

Mr. LAZARUS supplies his SPECTACLES only after testing the sight.

ADVICE FREE.

HONGKONG HOTEL, (Room No. 139).
Hongkong, 5th December, 1895. [1871]

To-day's

Advertisements.

ELITE SKATING RINK,
DUDELL STREET.

TO-NIGHT AND EVERY EVENING
BOXING NIGHT
GRAND MASQUERADE BALL,
DANCING AT 10 P.M.

Intending Competitors can give in their Names for the One Mile BICYCLE CONTEST.

Wait and Watch the date for the
LIGHT WEIGHT CHAMPIONSHIP
BOXING CONTEST
for a Handsome
SILVER CUP.

Admission on SATURDAY—\$1.00.

The BAND of the WEST YORKSHIRE
REGIMENT will be in attendance Nightly.
SAM MARKS,
Proprietor.

Hongkong, 24th December, 1895. [1901]

ZETLAND LODGE,
No. 55, E.C.

A REGULAR MEETING of the above
LODGE will be held in the FREEMASONS'
HALL, Zetland Street, THIS EVENING, the 26th
December, at 8 for 8.30 p.m. precisely. Visiting
Brethren are cordially invited to attend.
Hongkong, 26th December, 1895. [1957]

NEW YEAR HOLIDAY.

IN accordance with Ordinances No. 6 of
1875, the Undermentioned BANKS will be
CLOSED for the Transaction of Public Business
on FRIDAY, the 1st January, 1897—

For the CHARTERED BANK OF INDIA,
AUSTRALIA, AND CHINA,
T. H. WHITEHEAD,
Manager, Hongkong.

For the HONGKONG & SHANGHAI BANKING
CORPORATION,
T. JACKSON,
Chief Manager.

For the NATIONAL BANK OF CHINA,
LIMITED,
GEO. W. F. PLAYFAIR,
Chief Manager.

For the MERCANTILE BANK OF INDIA,
LIMITED,
J. W. R. TAYLOR,
Manager, Hongkong.

For the BANQUE DE L'INDO-CHINE,
Hongkong Agency,
M. LACAZE,
Acting Manager.

For the BANK OF CHINA & JAPAN, LIMITED,
HONGKONG,
CHANTREY INCHBALD,
Manager.

For the YOKOHAMA SPECIE BANK, LIMITED,
NAO NABEKURA,
Agent.

Hongkong, 26th December, 1895. [2003]

THE CHINA MUTUAL STEAM NAVI-
GATION COMPANY, LIMITED.

NOTICE TO CONSIGNEES.

FROM GLASGOW, LIVERPOOL AND
SINGAPORE.

THE Company's Steamship

"CHINGWO"

having arrived from the above Ports, Consignees
of Cargo are hereby informed that their Goods
are being landed at their risk into the Godowns
of the Hongkong and Kowloon Wharf and
Godown Company, Kowloon, whence delivery
may be obtained.

No Claims will be admitted after the Goods
have left the Godowns, and all Claims must be
sent in to the Office of the Underwriter before
Noon on the 31st instant, or they will not be
recognized.

All broken, chafed, and damaged Goods are
to be left in the Godowns where they will be
examined on THURSDAY, the 31st instant,
at 3 P.M.

No Fire Insurance has been effected, and any
Goods remaining in the Godowns after the 31st
instant will be subject to loss.

Bills of Lading will be countersigned by
HOLLIDAY, WISE & Co.,
Agents.

Hongkong, 26th December, 1895. [2002]

DOUGLAS STEAMSHIP COMPANY,
LIMITED.

FOR SWATOW, AMOY AND FOCHOW
THE Company's Steamship

"NAMO"

Captain Hall, will be despatched for the above
Ports on TUESDAY, the 29th instant, at 2 P.M.

For Freight or Passage, apply to
DOUGLAS LAZARUS & Co.,
General Managers,
Hongkong, 26th December, 1895. [2004]

CHINA NAVIGATION COMPANY,
LIMITED.

FOR SHANGHAI.

THE Company's Steamship

"WUHU"

Captain Benson, will be despatched as above
on TUESDAY, the 29th instant, at 2 P.M.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.

Hongkong, 26th December, 1895. [2005]

Intimations.

DAKIN, CRICKSHANK &
COMPANY, LIMITED,
VICTORIA DISPENSARY,
HONGKONG.

AERATED WATERS.

SIMPLE AERATED WATER.

SODA WATER.

GINGER ALE. LEMONADE.

SARSAPARILLA.

RASPBERRY VADE, &c.

DAKIN, CRICKSHANK & Co.'s WATERS are
made under the constant supervision of a duly
qualified English Chemist and will bear com-
parison with the best English Manufactures.

Special terms to HOTELS, CLUBS, MEN'S and
other Large Consumers.

Any complaints should be addressed to the
Manager.

Hongkong, 2nd May, 1895. [427]

NOTICES TO CORRESPONDENTS.

It is requested that all communications relating to Subscriptions,
Advertisements, &c., be addressed to the "Manager, Hongkong
Telegraph" and not to the Editor.

Letters on Editorial matters to be sent to "The Editor" and
not to individual members of the staff.

Communications intended for publication must be accompanied
by the name and address of the writer, not necessarily for
publication, but as evidence of good faith.

While the columns of the Hongkong Telegraph will always
be open for the free discussion by correspondents of all questions
affecting public interests, it must be distinctly understood that
the Editor does not in any way hold himself responsible for
opinions thus expressed.

TO ADVERTISERS.

Advertisements are requested to forward all notices intended for
insertion in that day's issue not later than Three o'clock so as
not to retard the early publication of the paper.

Advertisements and Subscriptions which are not ordered for a
fixed period will be continued and discontinued.

The Hongkong Telegraph has the largest circulation of any
English newspaper published in the Far East, and is therefore the
best medium for Advertisers. Terms can be learnt on application.

The Hongkong Telegraph's number at the Telephone Central
Exchange is No. 1. Telegraphic address—"Telegraph,"
Hongkong.

A. S. WATSON & CO.,
LIMITED.

ESTABLISHED A.D. 1841.

WINE
AND
SPIRITS.

ALL these are selected by our London House,
bought direct at first hand, imported in wood
and bottled by ourselves, thus saving all inter-
mediate profits, and enabling us to supply the
best growths at MODERATE PRICES.

PRICE LISTS, with Full Details, to be had on
Application.

PORT after removal should be rested a month
before use. When required for drinking at
once it should be ordered to be decanted at
the DISPENSARY before being sent out.

SHERRY.—Excellent Dinner and After Dinner
Wines of very superior Vintages. All are
true Xeres Wines.

CLARET.—Our Claret, including the lowest
Priced, are guaranteed to be the genuine
product of the juice of the grape and are not
artificially made from raisins and currants,
as is generally the case with Cheap Wines.

BRANDY.—All our Brandy is guaranteed to be
pure COGNAC, the difference in price being
merely a question of age and vintage.

WHISKEY.—All our Whiskey is of excellent
quality and of greater age than most brands
in the market. The SCOTCH WHISKY
marked "E" is universally popular, and is
pronounced by the best local connoisseurs
to be superior to any other brand in the
Hongkong market.

We only guarantee our WINE and SPIRITS
to be genuine when bought direct from us in the
Colony or from our authorised Agents at the
Coast Ports.

A. S. WATSON & CO., LD.
THE HONGKONG DISPENSARY.
Hongkong, 15th September, 1895.

BIRTHS.

On the 24th instant (Christmas Eve), the wife
of WILLIAM FARMER, of a daughter.

On the 12th instant, at BRASS HILL, BORASSO
WANG, Singapore, the wife of W. B. HARRINGTON,
of a daughter.

On the 12th instant, at Lee, Kent, the wife of E. V.
CAREY, Selangor, of a daughter.

At Yokohama, on the 21st instant, the wife of
Harry J. SHARP, of a daughter.

At Shanghai, on the 21st instant, at No. 14,
Minghong Road, the wife of F. A. M. D'ALMEIDA,
of a son.

MARRIAGE.

On the 20th instant, at H.B.M.'s Consulate-
General, Shanghai, by Sir Nicholas J. Hansen,
Consul-General, and afterwards at the Holy
Trinity Cathedral, by the Rev. E. C. Bridges,
M.A., Philip Alexander Harrington, eldest son of
Alexander Chambers, of Leytonstone, Essex,
England, to Margaret Mary (Maggie), eldest
daughter of Edward Babbin, of Shanghai.

DEATHS.

At Shanghai, on the 20th instant, Alfred
Davis, a native of Oldham, England, late of
Two Cotton Mill, Shanghai; aged 30 years.

At Shanghai, on the 20th instant, P. M.
Peterson, late pilot at Ningpo; aged 56 years.

On the 20th instant, at H.B.M.'s Consulate-
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Consul-General

very easy for Britain to spare the necessary number of prize crews, to take the new ships into British ports, when the occasion comes. Eight millions is a lot of money to spend that way, but still, as that doesn't mean looking at Alsace-Lorraine, Germany must be, so far, relieved.

ACCORDING to a report brought by the N. Y. K. steamer *Sagamimaru* from Vladivostok on the 10th inst., to Taketa Shoten, a tea firm at Sakamachi, Kobe, the brick tea imported from China into Russia yearly amounts to some 50,000,000 catties, about 9,000,000 yen in value, while the quantity of the same tea exported from Japan to Russia is no more than about 20,000,000 catties, which are all shipped by Taketa Shoten. Over 7,000,000 catties of the brick tea imported from China are consumed at Vladivostok and in the Amoy district, the rest being sold in the interior of Russia. The demand for brick tea continues to increase in Russia. It is, says the *Koku Chronicle*, not thought very difficult to oust the Chinese tea out of the Russian markets if the Japanese make the effort.

THE Hon. T. N. Christie, in proposing the toast of the Army and Navy at the St. Andrew's Dinner at Hutton, Ceylon, said:—There was never a time—in a time of peace—when more attention was given to our Army and Navy than at the present moment, and very rightly and necessarily so. We have no monopoly of valor. We find that there are other nations as valorous as ourselves. We must keep pace with them in our scientific equipment and in the general efficiency of our Army and Navy. When I look back on the year that is now closing, the three most gallant deeds, at all events the three that have attracted my attention, most show, we have no monopoly of valor. First there was that bold, if perhaps misguided raid—led by a Scotman—to try to upset the miserable Government of a South African State. Then, gentlemen, next was that gallant Italian General, in the face of defeat with his face to the enemy, defying them to save his honor. Then we have had the example of those German sailors on their warship, going to their doom, cheering for their Emperor, and that, too, in cold blood.

SHOULD the Cuban Insurrection last much longer, Spain would not lose much by quitting hold of the island. A statistical table given by the *Manchester Guardian* very clearly shows how enormous are the losses to the planters and others. Taking sugar alone, the exportation from Cuba to the United States has fallen off by two-thirds up to last August, and has now ceased, very much to the advantage of the British East and West Indies and other sugar producing countries. All of these have gained largely, in an illustration of the saying about an ill wind. But the "Pearl of the Antilles" will not find much consolation in that; even if the war ended at once, it would be a long time before the devastated plantations recovered their former producing power. It is the same in the case of tobacco. Owing to exceptionally large stocks being in hand, the market for Havana cigars has not yet begun to "boom." But experts in the trade predict that in another two years there will be such dearth as will place prices Havana cigars beyond the reach of all except the very wealthy. With these two staple industries ruined almost past mending, the *Globe* (London) says the termination of the rebellion must endow Spain, already hovering on the brink of bankruptcy, with a veritable white elephant. For a long time afterwards she would have to maintain an army of occupation to prevent another rising, and as revenue receipts would of necessity be next to nothing, the Madrid Treasury would have to find the money. In the presence of this dismal prospect, the Spanish people would do well to consider the question whether Cuba is worth maintaining in the way of "dressing ship" on board.

It is at 10 a.m. the usual Christmas service was held on board, the Rev. M. Gace officiating. There was a large attendance from all the ships and with Lieut. Pryce-Brown at the organ the men sang with pleasing spirit the good old Christmas hymns "While Shepherds Watched," "Come all ye faithful," and "Hark, the Herald Angels Sing." Amongst those at the service were officers and men from the *Humber*, *Swift*, *Harle*, and *Handy*. At 11 a.m. the order was passed to "make ready for Commodore's inspection," and to use a vulgar but striking phrase, all hands "bucked up" capitolly. Commodore Holland on his visit was accompanied by Mrs. Holland, the Misses and Master Holland, Captain Taylor, Lieut. Plomer, Mr. Lawford (Commodore's secretary), Lieut. Pryce-Brown, R.M.L.I., Fleet Paymaster Whitfield, Mr. Bolton (clerk), and other officers. The marines had a miniature battery rigged and fired Commodore's salutes as the party entered and left the quarters, and cheers were given that spoke well for the popularity of the *Victor's* officers. The sick bay was also visited and the kindly words and good wishes given the invalids were warmly appreciated. The chief petty officers' mess was adorned with excellent taste and the transparency showing "Sweet hearts and Wives" had a very pretty effect when lighted up and the rest of the place decked. Chief Boatwain Mate Standridge and Messrs. Abel (chief writer), B. Greet, and Harter and their comrades laid themselves out to do honor to the occasion, and they did so in a style most creditable to the ship, the service, and the crew. The Chinese members of the crew entered into the spirit of the celebration and worked "double tides" in order to have a little extra leave when their New Year festivities take place. After dinner and washing-up, beer and lemonade were used for toasting purposes and this, like all else, was done as only British bluejackets can do it.

It may be mentioned that the marines have a clever caricaturist in their company and some of his smart little pictures were used with good effect in the decorations.

Altogether, the people on the *Victor* form quite a happy family, and there is no fear of our sea prizefighter suffering with such gallant fellows, whether they have to do duty on board a big battleship or a tiny "destroyer."

The British bluejacket has always been noted for the whole-hearted manner in which he takes his pleasure, and a visit paid to the old *Victor* yesterday bore ample proof of this. Thanks to the kindness of Commodore S. C. Holland, A.D.C., Captain Taylor, and the other officers, all hands were enabled to spend Christmas Day in right good old style and one could well understand the pleasing reference to the old ship herself as a home, that were yesterday heard on all sides.

Early on Christmas Eve the work of decorating began and flowers, flags, and coloured paper fairly littered the lower deck. Blue-jackets, marines and petty officers vied with each other in making their mess tables smart and pretty and no end of trouble was taken to do the thing properly. A *Telegraph* man had a look round on Thursday when all hands were hard at work and he saw a pleasing sight indeed. Here were men writing mothers' letters, making festoons of foliage, others trying the effects of transparencies, and a couple of capacious gentlemen in red coats were earnestly discussing the serious question whether a paper shield should have a blue or yellow ground. Needless to say the big galleries with their great coppers and ovens were engaged all Christmas eve, cooking the good things, roast beef, turkeys and plum puddings that are incidental to the occasion.

It was yesterday, however, that the old ship was seen at her best. At each mess table was evidenced all that taste that Jack and shipmates—themselves—are so well able to display. Shields with time-honoured legends like "Sweetheart and Wives," "Absent comrades," the season's greetings, were visible on all hands: Flags hung in graceful festoons from the beams overhead and at the head of several tables were prettily designed ship's masts, rigged in flowers and flags, with pictures of sailors manning the yards. The sick bay, too, had its share of kindly attention. A big Geneva cross was a feature of the decorations here and a figure of Father Christmas had a prominent place on the table. The poor invalids, too, had their walls and fittings brightly decked out and, thanks to their thoughtful caretaker, Chief Sick Bay Steward, the pleasures of the festive season were made something more for them than a mere hollow formality. The Marines fairly spread themselves for the occasion and Sergeant-Major Williams was amply credited by the way in which the amphibians acquitted themselves. The honoured legend "Par Mare et Terram" had a conspicuous place, and the tectal members of the crew adorned the water tank with a white shield, greenedged and goldlettered with "Success to Temperance" Generally, the *fest ensemble* was very effective and speaks volumes for what our gallant fellows in the navy can do in the way of "dressing ship" on board.

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The Royal Engineers celebrated Christmas in good style at their barracks last night and the usual seasonal observances were gone into with gusto. The balconies were festively decorated with flags, Chinese lanterns &c.

AT THE CENTRAL POLICE STATION.
The members of the Central Police station mess celebrated Christmas day by a quadrille party in the Central last night. The mess room was devoted to dancing and was fairly crowded with the officers, their wives, and friends. Of course the place was decorated in real Christmas style and the spacious balcony curtained with flags made a pleasant resort for smokers. Capital music was supplied and the bagpipes were also played at intervals by sergeant Pickford. Ample provision was made in the way of refreshments and Mr. Wright and his aides deserve all praise for the manner in which they looked after the comfort of their guests. The party was voted a complete success and our gallant men in blue show that they can dispense hospitably quite as ably as they look after the peace and safety of Her Majesty's police stations. The *Hongkong Telegraph* reciprocates the Central's kindly greeting and wishes the Force the compliments of the season.

AT THE CIVIL HOSPITAL.
A very agreeable concert was given at the Civil Hospital yesterday afternoon for the benefit of the patients. An excellent programme was gone through in faultless style much to the enjoyment of the many visitors present, who greatly admired the decorations for which, we believe, Mr. Fellow, the Steward, was chiefly responsible.

SEAMEN'S CLUB.
The Seamen's Club on *Praya East* was thronged with seafaring people all day. The music and singing was capital, the fun immense and the decorations very effective.

THE REBELLION IN THE PHILIPPINES.

(From a Correspondent.)

There are now 16,000 Spanish troops in and around Manila; 10,000 more will embark from Spain during December; two troops are on the way; and, by the end of January, it is expected that there will be a force of 30,000 European soldiers at the disposal of the Government. These with the Indian soldiers will give a total force of from 45,000 to 50,000 fighting men. During the last three weeks, outbreaks have occurred in provinces hitherto loyal. Cavite is still the head centre of the insurrection, and it is estimated that there and in the adjacent provinces there are at least 50,000 rebels. Very severe fighting took place during November with heavy loss to the rebels; the Government troops also suffered severely on several occasions in storming the enemy's forts. This was close to Manila. The latest information is that, in view of fresh outbreaks which have taken place in the provinces north of Manila, nearly all the troops have been withdrawn from Cavite and concentrated in Manila, which practically means that active operations in Cavite have been abandoned for the present. This will greatly strengthen the rebels' position there and render their final dislodgement more difficult than ever. A new conspiracy has been discovered in Vigan, province of Ilocos, in the north, which was to rise on 31st of December, when the rebels were expected to be in possession of arms. It was divulged by a native priest and the ringleaders captured. This plainly shows that the severe measures taken to suppress the rebellion have not had the slightest deterrent effect. The whole country seems honeycombed with sedition, and the optimistic views held by many as to the prompt suppression of the insurrection can no longer be entertained. Notwithstanding the large number of troops at the disposal of the Government, the rebel cause seems to be as powerful and as flourishing as ever.

A strong committee representing the British community has been formed in Manila with the object of "considering means to be adopted in the interest of the community should special occasion arise."

About the 21st November a railway train near Pangasinan was wrecked, and the passengers injured and taken prisoners by a rebel band. The Government troops afterwards attacked the rebels and released most of the prisoners. It is most difficult for the Government troops to obtain any profitable victory, as the rebels, when attacked, simply retreat and meet again somewhere else.—*Strait Times*.

ON the 4th instant, letters from Mindanao reported fresh troubles with the Mahomedans. Reports there on the Spanish garrisons in that quarter being weakened by the despatch of reinforcements to Manila. On the 10th November, as a conveyance on the way, eight of the *Moro*, as these plunderers are termed, dashed upon the escort sword in hand. The combat resulted in one soldier being killed and three wounded. Of the enemy three were killed and twenty-three wounded. The Spanish troops, now few in number, have enough to do to keep the *Moros* off, and constant vigilance has to be exercised.

THE NEW GOVERNOR-GENERAL.

Lieut. General Camilo Polavieja y del Castillo, Governor-General of the Philippines Islands, is in his fifty-eighth year, and has been in the army since 1878, his first experience of active service being gained as an ensign on O'Donnell in the campaign of 1860 in Morocco. Fifteen years later he distinguished himself in the Carlist War, which gained him the rank of Brigadier and the Order of the Crown of Italy, and he also took part in quelling the first insurrection in Cuba. He was promoted to his present rank in June 1880, and has recently served as Quartermaster-General of the Army, and is decorated with the Order of the Crown of Italy, the Grand Cross of St. Hermenegildo, and Isabel I. in Castile, and the Order of Military Merit. Without enjoying the high military reputation of Campero and Weyler, he is known as a most capable and energetic officer.

LI HUNG-CHANG.

WHY MR. DITRING HAS RETURNED TO CHINA. Shanghai, December 23rd.
The return to China of Mr. Ditring, which we noted briefly yesterday, is, we believe, principally connected with Li Hung-chang's embassy to Europe, that is to say, Mr. Ditring, who was a close adviser of Li in Europe, is desirous of settling some outstanding points of the tour, and meeting the various Viceroy. From time to time statements have been published crediting Mr. Ditring with the most diverse intentions in this country. One of the latest and most circumstantial was the constitution of a powerful Bank in China, but, on the best authority, we are assured that the report is incorrect. Mr. Ditring's present visit is of the nature we have indicated at the commencement of this article, and is not likely to be prolonged after the opening of the northern ports to navigation. As soon as possible he will start for Chefoo, and then will travel overland to the capital, a journey of about twelve days. Having settled affairs, by the time Tientsin re-opens after the winter he hopes to be able to start for Europe, to enjoy the remainder of the home leave to which he is entitled.

The presence in China of one who was so intimately acquainted with Li's journey naturally revives interest in it, and speculation as to what it may bring about. Some people appear to regard it as a disappointment, in view of the treatment Li has lately received at the hands of his Imperial Master, but there is good reason for such being so wholly discouraged. Li has had his eyes opened to the necessities of his country, and those with whom he has conversed on terms of intimacy are greatly impressed by his courage and sincerity. But how are convictions to be translated into actions? We believe that Li was strongly urged to at once retire into private life upon his return to China, and that about the completion of his elaborate treatise recording the result of his experience and embodying a detailed plan of suggestions for reform. This would have been presented to the Emperor, and the Emperor, in a memorial, and subsequently have reached the people of China. Li's name would have been invested with such a work with particular authority and influence over his countrymen, and would have created such an opinion that reform along wise and statesmanlike lines would have come, not perhaps immediately, but sooner than many might suppose. Li would thus have avoided the imputation of self-interest which every active reformer lays himself out to, and would have had the patriotic gratification of standing aside, but yet seeing his measures carried out by others. Li, however, has not yet adopted this course, and we hear reports of the difficulties in which he is involved. It is, however, certain that he is by no means the "extinct volcano" some would occasionally have us believe, and that the position of affairs regarding China is just now especially interesting and important.—*N. C. Daily News*.

THE COLONY OF VICTORIA.

By E. JEROME DYER.

The following are abstracts of a paper read by Mr. E. Jerome Dyer at a meeting of the Royal Colonial Institute held in London on the 17th November, Sir Westby B. Pechell, K.C.M.G., in the chair.

Thence to Melbourne 40,000 of its population who went back to the land, and the retrenchment of 1,100 employees in the public service, reducing the colony's expenditure to £1,000,000. The sum of £25,000,000 spent by the colony in 1895, as compared with £18,000,000 in 1894, are amongst the chief of these. It is also pointed out that, since 1880 up to 1893, and for many years previous to 1880, imports were each year greatly in excess of exports, in fact, for fifty-seven years previous to 1893, imports exceeded exports at the average rate of 71 millions per year. In 1893, however, this was reversed, and last year exports exceeded imports by £2,075,300; notwithstanding the fact that the wheat yield was only 5,000,000 bushels as compared with 11,000,000 the preceding year. The sum of £25,000,000 spent by the colony in 1895, as compared with £18,000,000 in 1894, are amongst the chief of these. 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Intimations.

CHOICE SELECTION OF SWEETS.

"Reviving Sweets repair the Mind's Decay."—Pope.

CADBURY'S CHOCOLATE CREAMS.

A Large Variety in FANCY BOXES, at Popular Prices.

PASCALL'S GOLDEN MALTEX.
CHOCOLATE PISTACHE. MARRONS GLACES.
AMANDES GRILLEES. NOUGAT AUX FRUITS. XTALIZED STRAWBERRIES.
JORDAN ALMONDS. BON-BONS FINS.
&c. &c. &c.

ATKINSON'S PERFUMES,
Various Odours.WATKINS & CO.,
APOTHECARIES' HALL, 65, Queen's Road, Central.

J. J. CARNAUD, 3, rue d'Argout, PARIS

TIN BOXES
STAMPED ARTICLESFOR
**MILITARY
EQUIPMENT**

Apply to Messrs DODWELL CARLILL & Co., Agents for M. OPPENHEIMER & Co, Paris

Hotels.

THOMAS'S GRILL ROOM.

THIS Establishment has always enjoyed a high class reputation for Liberty in Menu, Quality of Food and Perfection of Cuisine. THIS REPUTATION WILL BE MAINTAINED.

Fresh Dairy Produce, FRUIT and other supplies are regularly imported from the United States, Canada and Australia. BEEF from Kobe and TURKISH from the Straits.
The WINES, SPIRITS and MALT LIQUORS, comprising all brands in general demand, are the best supplied to the Far East. In addition to the BAR, GRILL and DINING ROOMS, the upper floors are arranged so as to provide PRIVATE ROOMS suitable for DINNERS or SUPPERS, &c.
PICNIC and BATHING PARTIES supplied with light refreshments at a moment's notice.
ICE CREAM from 2 P.M. to 11 P.M.
COLD MEAT SUPPERS from 9 to 11.30 P.M.

THOMAS'S GRILL ROOM.

FREDERICK BISHOP,
Manager.

NEW VICTORIA HOTEL.

ROTISSERIE.

MEALS A LA CARTE.

CHOPS, STEAKS, &c., &c., at any time between 7.30 A.M. and 11.30 P.M.

MONTHLY BOARDERS at Moderate Rates.

MADAR & FARMER,
Proprietors.

Hongkong, 3rd September, 1897. [1884]

WINDSOR HOTEL,

HONGKONG.

THIS ESTABLISHMENT, situated in the elegant building known as "CONNAUGHT HOUSE," offers First-class Accommodation to Residents and Travellers.
Passenger Elevator, from Entrance Hall to each Floor, in charge of experienced Attendant.
Favourable Arrangements made for Families and for Monthly or Extended Periods.

P. BOHM,
Proprietor & Manager.

Hongkong, 3rd April, 1895. [18]

PEAK HOTEL.

OPEN ALL THE YEAR ROUND.

THIS commodious and well appointed HOTEL, situated at a height of 1,350 feet above sea-level, has just been thoroughly re-decorated, renovated and re-furnished, and a NEW WING has been built, which commands magnificent Views of the Harbour and mainland of China.

For further particulars, apply to

THE MANAGER,
New Victoria Hotel.

Hongkong, 24th November, 1895. [17]

To be Let.

TO LET.

NOS. 2 & 3, STEWART TERRACE—
(THE PEAK).

Apply to J. W. NOBLE.

Hongkong, 15th August, 1895. [1077]

TO LET.

FIVE-ROOMED BUNGALOW "RHEDA,"
BONHAM ROAD.Apply to CHINA MERCHANTS' S. N. CO.,
No. 22, Praya West.

Hongkong, 8th June, 1895. [1014]

TO LET.

HOUSE No. 7, DES VŒUX VILLAS,
containing SIX BEDROOMS AND SIX BATHROOMS.

Apply to BELLILIOS & Co.

Hongkong, 21st December, 1896. [11989]

TO LET.

DWELLING HOUSES—
Nos. 2 & 4, RIFON TERRACE.

"HAROLD" at MAGADINE GAP.

"THE KENNELS," at MAGADINE GAP.

"RAVENSHILL" East and West.

ERANIE'S BUNGALOW, at KOWLOON.

GODOWNS in BLUE BUILDINGS.

Apply to THE HONGKONG LAND INVESTMENT
& AGENCY CO., Ltd.,
Hongkong, 23rd December, 1896. [17]

TO LET.

No. 18, HOLLYWOOD ROAD.

Apply to DAVID SASSOON, SONS & Co.

Hongkong, 15th December, 1896. [1860]

Shipping.

STEAMERS.

DOUGLAS STEAMSHIP COMPANY,
LIMITED.FOR SWATOW, AMOY AND TAMSUI.
THE Company's Steamship

"HAILONG."
Captain Davis, will be despatched for the above Ports TO-MORROW, the 27th instant, at Daylight.
For Freight or Passage, apply to DOUGLAS LAPEL & Co.,
General Managers.

Hongkong, 26th December, 1896. [1997]

FOR NEW YORK, VIA SUEZ CANAL.

To follow the S.S. *Arcton* and *Claverhill*.

THE Steamship

"RADLEY,"

Captain Tallack, will be despatched for the above Port on or about the 27th instant, at Daylight.

To be followed by the S.S. "MORVEN"

on or about the 17th January, 1897.

For Freight or Passage, apply to SHEWAN, TOMES & Co.,
Agents.

Hongkong, 26th December, 1896. [1913]

THE CHINA AND MANILA STEAMSHIP COMPANY, LIMITED.

FOR MANILA (DIRECT).

THE Company's Steamship

"ZAFIRO,"

Captain Cobban, will be despatched for the above Port on MONDAY, the 28th instant, at 4 P.M.

This Steamer has Superior Accommodation for Passengers.

For Freight or Passage, apply to SHEWAN, TOMES & Co.,
General Managers.

Hongkong, 22nd December, 1896. [1990]

OCEAN STEAMSHIP COMPANY.

FOR LONDON, VIA SUEZ CANAL.

THE Company's Steamship

"ACHILLES,"

Captain Harvey, will be despatched as above on MONDAY, the 28th instant, at 3 P.M.

For Freight or Passage, apply to BUTTERFIELD & SWIRE,
Agents.

Hongkong, 23rd December, 1896. [1992]

OCEAN STEAMSHIP COMPANY.

FOR SANDAKAN AND KUDAT.

THE Company's Steamship

"DEUCALION,"

Captain B. Branch, will be despatched as above on TUESDAY, the 29th instant, at 3 P.M.

For Freight or Passage, apply to BUTTERFIELD & SWIRE,
Agents.

Hongkong, 19th December, 1896. [1976]

INDO-CHINA STEAM NAVIGATION COMPANY, LIMITED.

FOR SINGAPORE, PENANG AND CALCUTTA.

THE Company's Steamship

"CHELYDRA,"

Captain R. Cass, will be despatched as above on TUESDAY, the 29th instant, at 3 P.M.

For Freight or Passage, apply to JARDINE, MATHESON & Co.,
General Managers.

Hongkong, 24th December, 1896. [1996]

CHINA NAVIGATION COMPANY, LIMITED.

FOR PORT DARWIN, QUEENSLAND PORTS, SYDNEY AND MELBOURNE.

THE Company's Steamship

"TSINAN,"

Captain Ramsay, will be despatched on MONDAY, the 4th January, at 4 P.M.

The attention of Passengers is directed to the Superior Accommodation offered by this Steamer. The First-class Saloon is situated forward of the Engine. A Refrigerating Chamber ensures the Supply of Fresh Provisions during the entire voyage.

A duly qualified Surgeon is carried and the Vessel is fitted throughout with Electric Light.

For Freight or Passage, apply to BUTTERFIELD & SWIRE,
Agents.

Hongkong, 26th December, 1896. [1994]

"GLEN" LINE OF STEAM PACKETS.

FOR LONDON, VIA SUEZ CANAL.

THE Steamship

"GLENHARRY,"

Captain Ferguson, will be despatched as above on MONDAY, the 4th January, 1897.

For Freight or Passage, apply to JARDINE, MATHESON & Co.,
Agents.

Hongkong, 19th December, 1896. [1971]

OCEAN STEAMSHIP COMPANY.

FOR NEW YORK, VIA SUEZ CANAL.

THE Company's Steamship

"POLYPHEMUS,"

Captain Goodwin, will be despatched as above on FRIDAY, the 17th January, 1897.

For Freight or Passage, apply to BUTTERFIELD & SWIRE,
Agents.

Hongkong, 19th December, 1896. [1977]

SAILING VESSELS.

FOR SAN FRANCISCO.

THE British Barque

"SUMBABA,"

Rahberg, Master, will load here for the above Port, and will have quick despatch.

For Freight, apply to SHEWAN, TOMES & Co.,
Agents.

Hongkong, 7th December, 1896. [189]

NOTICE TO SHIPPERS.

FOR SAN FRANCISCO.

THE 100 A. J. Iron 4-mast British Barque

"MATTERHORN,"

Captain J. Williams, will soon be ready to load for the above Port, and will have quick despatch.

For Freight, apply to MELCHERS & Co.,
Agents.

Hongkong, 28th November, 1896. [1840]

FOR NEW YORK.

THE 3 1/2 L. I. L. American Barque

"PENOBSCOT,"

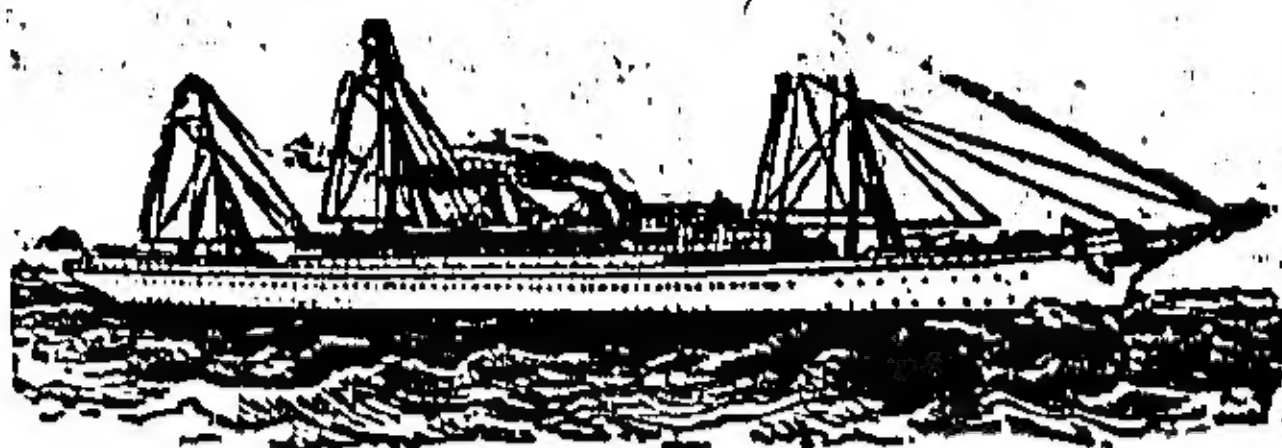
Captain Macleod, will load here for the above Port, and will have quick despatch.

For Freight, apply to ARNOLD, KARRER & Co.,
Agents.

Hongkong, 24th November, 1896. [1841]

CANADIAN PACIFIC
ROYAL MAIL S

1897.



1897.

SAFETY. SPEED. PUNCTUALITY.

THE FAST ROUTE BETWEEN CHINA, JAPAN AND EUROPE, VIA CANADA AND THE UNITED STATES.

(CALLING AT SHANGHAI, NAGASAKI, KOBE, YOKOHAMA AND VICTORIA, B.C.)

Twin Screw Steamships—6,000 Tons—10,000 Horse Power—Speed 19 knots.

PROPOSED SAILINGS FROM HONGKONG.

EMPRESS OF CHINA...Comdr. R. Archibald, R.N.R...WEDNESDAY, 20th January, 1897.
EMPRESS OF INDIA...Comdr. O. P. Marshall, R.N.R...WEDNESDAY, 17th February, '97.
EMPRESS OF JAPAN...Comdr. Geo. A. Lee, R.N.R...WEDNESDAY, 17th March.

THE magnificent Steamships of this Line pass through the famous INLAND SEA OF JAPAN, and usually make the voyage to VANCOUVER (B.C.) in 12 DAYS, making close connection at Vancouver with the PALATIAL TRANS-CONTINENTAL TRAINS OF THE CANADIAN PACIFIC RAILWAY which leave daily, and cross the Continent FROM THE PACIFIC TO THE ATLANTIC WITHOUT CHANGE. Close connection is made at Montreal, Quebec, Halifax, New York and Boston with all Trans-Atlantic Lines, which passengers to Great Britain and the Continent are given choice of.

Passengers Booked through to all principal points and AROUND THE WORLD. Return tickets to various points at reduced rates. Good for 4, 6, 9 and 12 months.
SPECIAL RATES (First-class only) granted to Missionaries, Members of the Naval, Military, Diplomatic and Civil Services, and to European Officials in the Service of China and Japan Governments.

CIRCULAR PACIFIC TOUR TICKETS Hongkong to Vancouver, Vancouver to Sydney, Australia, via Honolulu, and Sydney to Hongkong via Brisbane and Torres Straits. Good for 9 months, \$100.

The attractive features of this Company's route, embrace its PALATIAL STEAMSHIPS, (second to none in the World), the LUXURIANCE OF ITS TRANS-CONTINENTAL TRAINS (the Company having received the highest award for same at recent Chicago World's Exhibition) and the diversity of MAGNIFICENT MOUNTAIN AND LAKE SCENERY through which the Railway passes.

THE DINING CARS and MOUNTAIN HOTELS of this route are owned and operated by the Company, and their appointments and Cuisine are unequalled.

For further information, Maps, Guide Books, Rates of Passage, &c., apply to

D. E. BROWN, General Agent,
Pender's Street.

Hongkong, 23rd December, 1896.

OCCIDENTAL & ORIENTAL
TAL STEAMSHIP COMPANY.

TAKING CARGO AND PASSENGERS TO

JAPAN, THE UNITED STATES, MEXICO,

CENTRAL AND SOUTH AMERICA, AND EUROPE.

VIA THE OVERLAND RAILWAYS, AND OTHER CONNECTING STEAMERS.

VIA INLAND SEA OF JAPAN AND HONOLULU.

PROPOSED SAILINGS FROM HONGKONG.

Galle (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu).....

Tuesday, 29th Dec., at Noon.

Doric (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu).....

Saturday, 16th Jan., at Noon, 1897.

Belgic (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu).....

Thursday, 4th Feb., at Noon.

THE Company's Steamship

"GAELIC"

will be despatched for SAN FRANCISCO, via SHANGHAI, NAGASAKI, KOBE, INLAND SEA AND YOKOHAMA, on TUESDAY, the 29th December, 1896, at Noon.

Steamers of this line pass through the INLAND SEA OF JAPAN, and call at Honolulu and passengers are allowed to break their journey at any point en route.

Through Passage Tickets granted to England, France and Germany by all trans-Atlantic lines of Steamers, and to the principal cities of the United States or Canada. Rates may be obtained on application.

Passengers holding through ORDERS TO EUROPE have the choice of Overland Rail Routes from San Francisco, including the SOUTHERN PACIFIC, CENTRAL PACIFIC, UNION PACIFIC, DENVER and RIO GRANDE, and other direct connecting Railways, and from Chicago to destination the choice of direct lines.

Particulars of the various routes can be had on application.

Special rates (first class only) are granted to Missionaries, members of the Naval, Military, Diplomatic and Civil Services, to European Officials in service of China and Japan, and to Government officials and their families.

Passengers who have paid full fare, re-embarking at San Francisco for China or Japan (or vice versa) within one year, will be allowed a discount of 10 per cent. This allowance does not apply to through fares for China and Japan to Europe.

All PARCEL PACKAGES should be marked to address in full, and same will be received at the Company's Office until FIVE P.M. the day previous to sailing.

Consular Invoices to accompany Cargo destined to Europe beyond San Francisco, in the United States, should be sent to the Company's Office, addressed to the Collector of Customs, San Francisco.

For further information as to Freight or Passage, apply to the Agency of the Company, No. 7, Praya Central.

J. S. VAN BUREN, Agent
Hongkong, 10th December, 1896. [18]

F. BLACKHEAD & CO.,
SHIP-CHANDLERS, SAILMAKERS,
COAL AND PROVISION MERCHANTS,
NAVAL CONTRACTORS
AND GENERAL COMMISSION AGENTS.

PRAYA CENTRAL, HONGKONG.

SOAP MANUFACTURERS.

SOLE AGENTS FOR

HARTMANN'S RAFFERT'S GENUINE COMPOSITION RED HAND BRAND.

HARTMANN'S GREY PAINT.

DAIMLER'S PATENT MOTOR LAUNCHES &c.

Sole Agents for

FERGUSON'S SPECIAL CREAM

and

P. & O. SPECIAL LIQUOR SCOTCH WHISKY, &c.

EVERY KIND OF

SHIPS STORES AND REQUISITES

ALWAYS IN STOCK

AT

REASONABLE PRICES.

Hongkong, 14th May, 1896. [14]

NOTICE.

THE BEST PREVENTIVE OF ALL

INFECTIOUS DISEASES.

SANTAL

SOFT SOAP.

THE BEST

DISINFECTANT

AVOID ALL RISK OF OUTBREAK BY ITS USE.

W. G. HUMPHREYS & Co.,
Bank Buildings.

Hongkong, 6th March, 1897.

HONGKONG, PACIFIC
STEAMSHIP AND RAILWAY
COMPANIES.

THE attention of Passengers is directed to the very cheap rates offered by this Line to the PACIFIC COAST and the INTERIOR and EASTERN CITIES of the UNITED STATES and CANADA and to EUROPE.

HONGKONG TO LONDON \$400.

Excellent accommodation. First-class Table, DOCTOR and STEWARDESSE carried.

HONGKONG TO NEW YORK \$150.

The Railroad travelling is second to none on the American Continent. Magnificent Scenery of the ROCKY and CASCADE MOUNTAINS. The YELLOWSTONE NATIONAL PARK ROUTE. Passengers to EUROPE may proceed by one of the first class ATLANTIC MAIL LINES.

HONGKONG TO TACOMA \$225.

Rates of Passage to other Ports on application.

Special rates allowed to members of Government Services.

PROPOSED SAILINGS FROM HONGKONG.

(SUBJECT TO ALTERATION.)

Victoria.....[3.07] Tuesday...[Dec. 29.]

Olympia.....[2.08] Tuesday...[Jan. 19.]

Bismarck.....[3.01] Tuesday...[Feb. 9.]

Tacoma.....[2.50] Tuesday...[Mar. 2.]

THE Steamship

"VICTORIA,"

Captain Alex. Gove, sailing at Noon, on TUESDAY, the 29th December, will proceed to VICTORIA (B.C.) and TACOMA (Wash.), via SHANGHAI, KOBE and YOKOHAMA.

Through Bills of Lading issued to Japan, Pacific Coast Ports, and to Canada and United States Ports.

Consular Invoices of Goods for United States Ports should be in quadruplicate; and one copy must be sent forward by the steamer to the care of the Free Agent, Northern Pacific Railroad, Tacoma, Wash.

Parcels must be sent to our Office (with address marked in full) by 5 P.M., on the day previous to sailing.

For further information as to Passage or Freight, apply to

DODWELL, CARLILL & Co.,
General Agents.

Hongkong, 8th December, 1896.

THE PENINSULAR AND ORIENTAL
STEAM NAVIGATION COMPANY.

STEAM FOR

STRAITS, CEYLON, AUSTRALIA, INDIA,

ADEN, EGYPT, MEDITERRANEAN

PORTS, PLYMOUTH AND LONDON.

(Through Bills of Lading issued for BATAVIA, PERIAN GULF, CONTINENTAL and AMERICAN PORTS.)

THE Steamship

"KAISER-LIND,"

Captain C. L. Daniel, carrying Her Majesty's Mails, will be despatched from this for BOMBAY, &c., on THURSDAY, the 31st December, at Noon, taking Passengers and Cargo for the above Ports.

Silk and Valuable, all Cargo for France, and Tea for London (under arrangement) will be transhipped at Colombo into a steamer proceeding direct to Marse

conduct of the parties, while the evidence of Cheong Koon Sing on the same points cannot be reconciled with such conduct.

Before I proceed to consider that conduct it may be well to mention two or three facts in the case.

Both Mr. Darby and Cheong Koon Sing say that they saw Cheong Kai on the 27th March, 1892, but Mr. Darby does not speak of any conversation taking place with him. At the interview of the 27th March and on the following day Cheong Koon Sing delivered to Mr. Darby Chinese promissory notes and other securities which he had obtained from the Tsau Shing, Kwan Yu, and Kung Tai Banks and which amounted in value to about \$100,000. These documents were merely kept by the Bank for safe custody and were not from time to time by Cheong Koon Sing and the proceeds paid by him to the Bank in discharge of his liability on the bills and notes. The whole amount was got in with the exception of some few thousand dollars—Mr. Darby says "inside of \$5,000."

The ten bills were all dishonoured in consequence of the failure of the drawers at Shanghai. The banks in Hongkong by which they were drawn also suspended payment from time to time, the latest about two months after the 27th March, 1892. The promissory notes of the Kwan Yu Bank were not paid. Kan Sing Toi absconded from the colony one or two months after the same date.

I come now to the consideration of the conduct of the Bank and of Cheong Koon Sing as throwing light upon the proceedings at the interview of the 27th March.

On the 30th March, 1892, the Bank opened an account in their books called the "Comptroller's Liability Account." In this account they debited Cheong Koon Sing with the amount of all the dishonoured bills, including those of the Kwong Fuk and Wing Tung Yan Banks, and the unpaid note, and with interest and other charges in respect of them, and credited him with the proceeds of the bills in his hands. Mr. Darby says that Cheong Koon Sing was not furnished with a copy of the account, but that he knew of the existence of the account and could have seen it at any time or obtained a copy of it. This statement is both reasonable in itself and consistent with what I take to be the characters of the man concerned. It must be remembered that Mr. Darby speaks of Cheong Koon Sing as a capable and efficient servant of the Bank, while Cheong Koon Sing on his side speaks of his always finding Mr. Darby straightforward in his dealing with him. It must also be remembered that he was at the Bank every day engaged in the performance of his duties, and no doubt in constant intercourse with Mr. Darby. In those circumstances it was only natural that Cheong Koon Sing should be made acquainted with the particulars relating to such an important transaction, in regard to which he and the Bank were co-operating towards the reduction of his liability to them. In the plaintiffs' petition it was alleged that detailed accounts of the transactions and of the moneys due by Cheong Koon Sing were furnished to Cheong Kai during his lifetime, but at the hearing it was admitted on the part of the plaintiffs that this allegation could not be sustained, and that the accounts were only furnished to his executors, the defendants. This, no doubt, was an omission to do something which it would have been better for the Bank to do; but it may be pointed out that the bond of Cheong Koon Sing and Cheong Kai contained an express stipulation that it "shall not be necessary for the Bank to notify any such entries to Cheong Kai or to inform him of any losses sustained by the Bank through Cheong Koon Sing. Further, Mr. Darby says that Cheong Kai knew of the existence of this account; that he often came to the Bank in connection with this business; that he frequently had conversations with him on the subject; and that he was kept acquainted with the state of affairs from time to time. The charging of Cheong Koon Sing in the account with the losses on the Kwong Fuk and Wing Tung Yan bills at so early a date after the 27th March, in the absence of fraud on the part of the Bank—which is not alleged by the defendants—consistent with Mr. Darby's version of the events of that day, but is inconsistent with Cheong Koon Sing's rendering of them.

The next event of importance took place on the same day as the opening of the liability account, namely, on the 30th March, 1892. On that day the following letter in the handwriting of Mr. Darby and signed by Mr. Ingham was addressed to and signed by Cheong Koon Sing:

The Bank of China, Japan, and the Straits, Ltd.,
Hongkong, 30th March, 1892.
Dear Sir,—I have the regret of confirming to you my verbal statement of the 27th inst. that the drawers of our Chinese remittances on Shanghai would not meet their acceptances if the drawers of the bills failed under the pressure of the "run" which was taking place on the four Chinese banks—

Wing Tung Yan Kung Tai
Kwan Yu Kwong Fook

I have been since informed by wire that the Yuen Loong Hong has been closed and that the Shui Tai Hong has failed.

In other words, I have to look to you for payment to us at once of the following drafts purchased direct from you: [Here follow particulars of the bills, not including those of the Tsau Shing Bank which have already been given in this judgment. The Tsau Shing Bank was apparently not included because it was thought that, as Lo Hok Pang was not connected with that Bank, it would not close its doors.]

You have recourse against Yek Mow for Ts. 20,000 and this security against Yek Mow for Ts. 20,000 and this security against Yek Mow for Ts. 20,000.

I shall be glad of an answer as soon as possible, so that I may take the necessary steps to secure the Bank's interest.—I am, dear Sir, yours faithfully,
CHAMBERS INGHAM,
Manager.

I would also remind you that you have not yet credited the cash with the Bank's local advance of \$10,000 to Kwan Yu guaranteed by Lo Hok Pang, on demand, which I instructed you to cash on 27th inst.

This letter of course made it perfectly clear that the Bank held Cheong Koon Sing liable for the losses occasioned to the Bank by the dishonouring of the Kwong Fuk and Wing Tung Yan bills, and if the idea of fraud is excluded, it is entirely inconsistent with the fact of the Bank having in any way released him from that liability. It was written by Mr. Darby, who is alleged to have given that release. In cross-examination Cheong Koon Sing was asked whether he had made any representation to Mr. Darby as to his duplicity in acting in this way and he admitted that he had not. Then he was asked why he had not done so, but he could make no answer to the purpose. He says that when he received the letter he got a Portuguese clerk of the Bank to explain it to him, and he was troubled in his mind when he found that the question of the Kwong Fuk and Wing Tung Yan bills, which had been settled between Mr. Darby, Kan Sing Toi, and himself on the 27th March, 1892, was raised again. He accordingly took Kan Sing Toi to see Mr. Ingham, and he relates a short conversation which took place between them. Without going into details, it is sufficient to say that this conversation throws no light whatever on the question in controversy in this part of the case.

namely, whether the arrangement for charging Kan Sing Toi's account with the losses on the Kwong Fuk and Wing Tung Yan bills was or was not accompanied with a release of Cheong Koon Sing from liability in respect of those bills. In other words, the conversation is consistent with either contention. I cannot help thinking it strange that Cheong Koon Sing did not take Kan Sing Toi to see Mr. Darby, who had made the alleged agreement, and seek an explanation from him.

In answer to this letter Mr. Darby wrote and Cheong Koon Sing signed the following letter:

Hongkong, 1st April, 1892.
The Manager, the Bank of China, Japan, and the Straits, Ltd., Present.

Dear Sir,—In reply to your letter of 30th March stating that you hold me responsible for Ts. 100,000, being amount of drafts on insolvent firms in Shanghai, I now beg to hand you promissory notes to the value of \$71,800 made out in your favour by responsible Chinese firms. Please return me later on dishonoured acceptances for a like amount—Yours faithfully,

CHEONG KOON SING.

I shall shortly hand you further cover, i.e., as soon as possible, but I hope the Bank will not press me too much.

C. K. S.

There is no evidence on the point, but it seems to me probable that the postscript of this letter was added at the instance of Cheong Koon Sing.

Subsequently, Mr. Darby—at the request, as he says, of Cheong Koon Sing—wrote and Cheong Koon Sing signed the following letter:

Hongkong, 31st May, 1892.
The Bank of China, Japan, and the Straits, Ltd., Present.

Dear Sir,—With reference to the Chinese bills purchased by you from me, drawn by the Wing Tung Yan and Kwong Fook banks on Shanghai, amounting to Ts. 10,000 and for which Kan Sing Toi is liable either as drawer or guarantor, I shall be much obliged if you will debit Kan Sing Toi's account in your books with the amount now standing at my debit in respect of these bills, and such entry shall not in any way release me from my responsibility as your comptroller in the matter.—I am, dear Sir, yours faithfully,

CHEONG KOON SING.

Next Mr. Darby wrote and Cheong Koon Sing signed the following letter. Mr. Darby states that Cheong Koon Sing got this letter written because he was afraid that the letter of the 31st May, 1892, might let him in for liability on any deficiency that might arise on Kan Sing Toi's account.

Hongkong, 3rd June, 1892.
The Manager of the Bank of China, Japan, and the Straits, Ltd., Present.

Dear Sir,—Referring to your having debited Kan Sing Toi's account with the following entries—

\$27,777.78	equivalent at 72 of Ts.	20,000
13,938.89	"	"
21,777.78	"	"
13,938.89	"	"
21,777.78	"	"

\$97,222.23 equivalent at 72 of Ts. 70,000 being unpaid bills drawn by the Wing Tung Yan Bank and the Kwong Fook Bank, for which Kan Sing Toi is liable as drawer and guarantor, and payment of which was guaranteed by me. I agree that my position towards the Bank remains the same as if no such debit entry had been made on your books, and I also agree—

(1)—To make good any deficiency—up to but not exceeding the above mentioned sum of \$97,222.23—which there may be in Kan Sing Toi's account after realisation of the securities held by you, which securities you may dispose of whenever you please, without reference in any way to me.

(2)—To make good to the Bank should they call upon me to do so, the deficiency shown by the Bank's books in respect to the aforesaid unpaid bills on the date on which such call is made, such payment to release my guarantee of Kan Sing Toi's account as given in para. 1.—I am, dear Sir, yours faithfully,

CHEONG KOON SING, Comptroller.

I will presently consider what is the effect of these four letters. But it is necessary in the first instance to determine whether any effect at all should be allowed to the three of them which are written by Mr. Darby and signed by Cheong Koon Sing. Mr. Darby says that he fully explained these letters to Cheong Koon Sing before they were signed, and in particular that he "went over the first of them line by line with him." With regard to this letter Cheong Koon Sing at first said, in reply to Mr. Drummond, that Mr. Darby "explained the contents of the letter to him in pidgin English; he told him something about Ts. 70,000." At this point Mr. Francis interposed with an objection that, the defendants not having pleaded any defence of fraud or misrepresentation on the part of the Bank, they were not entitled to give to the letter any effect, and that the letter had been obtained by any fraud or misrepresentation on Mr. Darby's part. The Court, however, allowed the examination to continue, and Cheong Koon Sing then modified his previous statement by saying that Mr. Darby "said only a few words in pidgin English." With regard to the second of the three letters, he says that "it was not explained to him that he was asking the Bank to debit Kan Sing Toi's account with Ts. 70,000 and that if he had known that all this was in the letter, he would not have put his signature to it." With regard to the third of the three letters, he says Mr. Darby said a few words, but in substance he asserts that it was not explained to him. With respect to each of the three letters he makes the statement that he thought it was "of no importance, so he signed it."

Now, as Mr. Francis argued, there is no allegation of fraud or misrepresentation made against the plaintiffs in the pleadings, and as there is no evidence of fraud or misrepresentation made against Mr. Darby. But certainly these assertions of his go very near such a charge. For the reasons, however, which I have already given with respect to the relative credibility of these two witnesses, I accept the statement of Mr. Darby that he explained the letters to Cheong Koon Sing. Further, I am of opinion that Cheong Koon Sing is to be believed and experienced as a man of business to put his signature to a letter of which he did not understand the purport. I am also of opinion, from various features of evidence in the case, especially from the account given by himself of his education, training, and business career, and from my observation at the hearing, that Cheong Koon Sing has minimized his knowledge of the English language, both as spoken and as written. It is also matter for observation that there is nothing unfair or unconscionable in the regard Cheong Koon Sing in the letters; they merely give effect to the arrangement which Mr. Darby says was made between the three parties concerned on the 27th March, 1892. On the other hand it may be asked, is it fair or reasonable of Cheong Koon Sing to desire or endeavour to disclaim an admitted liability in respect of the bills of the two banks in question because the Bank, in his aid and for his advantage, was making an effort to get that liability discharged with the moneys of Kan Sing Toi? Mr. Darby beyond the admission given by Kan Sing Toi, because the Bank was charging on his account the Wing Tung Yan as well as the Kwong Fook bills. At the same time I cannot help thinking that it would have been more prudent for the Bank to have allowed as directed Cheong Koon Sing to have the letters written by some person not in their employment.

These four letters, then, are consistent with and support the contention of the plaintiffs as to what took place at the interview of the 27th March, 1892; they are inconsistent with and tend to rebut the contention of the defendants with respect to the same matter.

In accordance with the request made in Cheong Koon Sing's letter of the 31st May, 1892, the Bank on that date debited the account of Kan Sing Toi with the sum of \$97,222.23, being the amount in local currency of Ts. 70,000, the face value of the bills drawn by the two Banks with which he was connected. The Bank was empowered to make this charge by the terms of a general letter of hypothecation given to it by Kan Sing Toi on the 25th August, 1891. It is material to observe that the entry was not accompanied by any corresponding entry in the Comptroller's Liability Account, reducing pro tanto the amount of his liability, as it would have been if the Bank had intended to relieve him from liability in respect of the bills in question. In fact on the account was charged in the Comptroller's Liability Account and not—except in an isolated instance—in Kan Sing Toi's account. Mr. Darby says that Cheong Kai "on more than one occasion asked the Bank not to press him for an immediate settlement, in the hope that there might be some margin on Kan Sing Toi's securities." There was never any such margin, and the liability of Cheong Koon Sing was never in any way reduced by the arrangement for debiting Kan Sing Toi's account. On the 30th June, 1894, the entry was, apparently in accordance with instructions received from the head office in London, written off the books.

During the years 1892-94 payments of large sums of money were made by Cheong Koon Sing to the Bank in liquidation of his liability, and there were also various transactions between the parties, especially in regard to a property in Saigon, of which Cheong Koon Sing had obtained an assignment from the Kwan Yu and Kung Tai Banks. It does not appear to be necessary for me to refer to these matters in detail.

Cheong Kai died in the month of January, 1894, and probate of his will was granted to the defendants. Not long afterwards they gave notice in writing to the Bank to determine the bond. The notice expired on the 22nd September, 1894, and the Bank furnished the defendants with an account, made up as on that date, showing the particulars of their claim against the estate of Cheong Kai. The writ was issued some days before the expiration of the notice, but it was agreed between the parties at the hearing that the account should be treated as if it had been made up on the date of the issue of the writ.

Cheong Koon Sing remained in the employment of the Bank as his comptroller until the liquidation of the old Bank on the 28th September, 1894, according to Mr. Darby, and until the 4th October, 1895, according to himself. He admitted that he had not during that time taxed Mr. Darby with bad faith in departing from the agreement of the 27th March, 1892, although he must have known by October, 1894, what the claim of the plaintiffs and the defence of the defendants were respectively.

These are the facts of the case as I find them. It remains to consider what are the rights and obligations in point of law of the parties as growing out of these facts. It was well said by Mr. Drummond in the course of his address that "the law formed a very small part of the case, and that the main difficulty was in deciding as to the effect of the evidence." The position of the parties in the suit may be briefly stated as follows. The defendants do not deny the execution by their comptroller of the bond of surety, nor do they dispute that the losses on the dishonoured bills and notes come within the scope of the bond and that they are therefore in the first instance liable to the Bank for those losses, but they contend, first, that the Bank has, by its conduct in the matter, discharged them in construction of law from that liability, and secondly, that, if they are not so discharged, on the true state of the accounts between them, Cheong Koon Sing is not indebted to the Bank but the Bank is indebted to him, and therefore they in turn are not liable to the Bank.

The first of these defences was formulated by Mr. Drummond in the following terms:—"That the effect of the arrangement made between the creditor (the Bank), the debtor (Cheong Koon Sing), and Kan Sing Toi was to discharge the surety, Cheong Kai, first, by depriving him of a remedy to which he was entitled, or, in other words, by making a material alteration in the debtor's position without the assent of the surety and without any reservation of the rights of the creditor, and secondly, by giving time to the debtor; and, thirdly, (a) by discharging the debtor; and (b) by taking substituted security."

With regard to the point as to depriving the surety of a remedy to which he was entitled, it was said, in further explanation, that before the agreement the debtor could have sued Kan Sing Toi, but that the effect of the agreement was to preclude him from doing that afterwards.

Let us take these points in their order. In the *Contract Act*, section 32, sub-section 3, under the heading of "conduct of the debtor which discharges the surety," there occurs the following passage:—"First, any material variation of the terms of the contract between the creditor and the principal debtor will always discharge the surety; and, secondly, a variation of those terms which is not material will also discharge the surety if it clearly appears that he became surety on the faith of the original contract, or if he has made those terms a condition of his giving time to the debtor."

Now, the question of the variation of the terms of the contract between the creditor and the principal debtor, and after such notice he executed the guarantee, he is held to have become surety on the faith of the original agreement." In the present case the surety had express notice of the terms of the contract made between the creditor and the principal debtor, as set out both in the letter of agreement and in the bond, and, therefore, if the creditor made any variation, whether material or not, of the terms of the contract, the surety falls within the rule thus laid down and the surety is discharged. But the question is, was there any such variation made by the creditor? What were the terms of the contract on this point? They were that Cheong Koon Sing was "to be responsible for and pay on the days when the same should fall due all Chinese bank notes, bills, etc., which might be received or purchased by him or his employees for the Bank. Entering into view for the moment the question of the release of the principal debtor, which falls under another head of the defence, as stated above, it may be asked what variation of the contract was effected by the arrangement made at the interview of the 27th March, 1892? According to his own showing, Cheong Koon Sing was not a party to the arrangement. It was made entirely by Mr. Darby and Kan Sing Toi. And as to its effect being to deprive Cheong Koon Sing of a remedy to which he was entitled against Kan Sing Toi, I can find no real ground for this contention. If even the Bank was precluded by the arrangement from suing Kan Sing Toi until his shares had been realised, Cheong Koon Sing was no party to and was not bound by that arrangement. There was nothing to prevent him from suing Kan Sing Toi forthwith, and it would have

been no defence for the latter to say that the Bank had made an arrangement with him by which his liability was to be met in another way. Even if the case were otherwise on this point, it may be observed that the contract of guarantee contains no stipulation that the Bank is not to interfere with the remedies over of Cheong Koon Sing against the drawers of Chinese bills making default, although of course it would be inequitable for it to do so to interfere and it might render itself liable to Cheong Koon Sing by so doing. This view of the matter is not, in my opinion, affected by the letter of Cheong Koon Sing of the 31st May, 1892. It is true that in that letter he asks the Bank to charge the account of Kan Sing Toi, but there was nothing in that to supersede any legal rights that he might have against Kan Sing Toi, the latter having been no party to the arrangement suggested in that letter. I do not think, therefore, that the first ground of defence can be supported.

Then, to take the second ground, was the effect of the arrangement such as to discharge the surety by giving time to the principal debtor? The rule of law as to the discharge of the surety by the giving of time by the creditor to the principal debtor is old and well settled. It is thus stated in the work to which I have already referred, at p. 388:—"If the creditor, without the consent of the surety, enters into a binding agreement with the principal debtor to give him further time for payment of the debt, the surety is discharged. This is the case, even though no injury could accrue to the surety, for he himself is the fit judge of what is or is not for his own benefit. It is not, however, every agreement or promise made by the creditor which will have the effect of discharging the surety. In the first place, an agreement by the creditor to give time to the principal debtor will not discharge the surety, and never did so either at law or in equity, unless it be of a binding character and unless made on valuable consideration. Such an agreement may be express, or may be implied from the conduct of the parties."

In the case now before the Court there was not, according to the evidence of either Mr. Darby or Cheong Koon Sing, any express promise or understanding made or given at the interview of the 27th March, 1892, to give time to Cheong Koon Sing. The case is not so clear as to an implied agreement. Taking Mr. Darby's evidence, I think it could reasonably be inferred from what was said and done at the interview that any margin that might exist on Kan Sing Toi's account was to be applicable in payment of the bills of the Kwong Fuk Bank; that the shares held by the Bank on that account would have to be realised in order to find out whether any such margin was available; and that, pending such realisation, Cheong Koon Sing was not to be called upon to make good the amount of those bills, or, in other words, was to have time given to him for that purpose. If we rely on Cheong Koon Sing's evidence, this inference is still more clear. But assuming that time was given, the question arises whether the implied agreement by which it was given was of a binding character and made on a valuable consideration? I am unable to think that it had any such binding effect. As Mr. Francis argued, there was nothing in the arrangement to prevent the Bank from repudiating it the next day and enforcing its remedies against all the parties to the bills. I can discover no trace of any consideration moving from Cheong Koon Sing to the Bank to induce it to make the arrangement. It was a case of its taking something from the Bank by way of relief of his own position, and giving it nothing in return. For even if Cheong Koon Sing's statements accepted that, if the arrangement had been made, he would have taken possession of and realised the promissory notes which Kan Sing Toi had about him, I do not see that his forbearing to do this constitutes a valuable consideration on his part for giving him time. There is no pretence that this forbearance was to Mr. Darby's request, and further, there is nothing to show that Cheong Koon Sing had any right to demand the delivery to him of the promissory notes or that Kan Sing Toi would have delivered them to him if he had so demanded them.

But besides the arrangement made on the 27th March, 1892, it is necessary to consider the effect of Cheong Koon Sing's letter of the 1st April, 1892, and the 3rd June, 1892. There was no answer sent by the Bank to either of these letters, but, having regard to the fact that they were written by Mr. Darby, I think it must be taken that the Bank assented to the proposals made in them. In the postscript to the first of these letters Cheong Koon Sing says "he will shortly hand the manager further cover, but he hopes the Bank will not press him too much." But, taking it that the Bank assented to this request, it appears to amount, not to a binding agreement to give him time, but to no more than a promise to refrain from unduly pressing him, and it is clear law that mere passive inactivity, or omission to press the debtor, as distinguished from an agreement giving time, will not discharge the surety." See *Colony on Guarantees*, p. 372. Or, as Lord Hatherley said in the *Oriental Financial Corporation v. Overend, Gurney & Co.*, L.R. 7 Ch. 150, "It is not simply neglecting to sue the principal which would have any effect upon the surety, but there must be a positive agreement with the principal that the creditor will postpone the suing of him to a subsequent period."

The letter of the 3rd June, 1892, while it embodies an agreement by Cheong Koon Sing that he was to be bound to the Bank on the basis of the bills, the total amount is not to exceed \$100,000, interest at the rate of eight per cent. per annum is to be payable on the principal sum adjudged from the date of the commencement of the suit to the date of judgment.

The taking of the accounts will extend to the dealings of the parties subsequent to the 22nd September, 1894. If this account results in a reduction of the amount for which judgment is enforced, interest will abate and execution be issued for a lesser sum, accordingly.

If any difficulty arises in settling the accounts, either party is to be at liberty to apply in Chambers for directions.

Reference was not made at the hearing to that portion of the prayer of the plaintiffs' petition which asks for an order for the sale of the premises mortgaged by Cheong Kai to the Bank and the application of the proceeds in payment of the claim, and as I feel some difficulty on one or two points connected with the making of such an order, I will reserve liberty to do so at a later date.

The plaintiffs will have the costs of suit, including the costs of and incidental to the application made by the defendants for the issue of a commission. This order is, of course, without prejudice to the order made by the Court with reference to the costs of the former trial.

Throughout this judgment I have used the terms "the Bank" and "the plaintiffs" in reference to the original plaintiff bank, but it is to be understood that the judgments and execution are for the benefit of the Bank of China and Japan, Limited, who are now the real plaintiffs in the case.

liability. The question to be determined is, whether the Bank, in agreeing to debit Kan Sing Toi's account with the amount of the bills to which I am now referring, intended to take a further security in lieu of the original security, that is to say, the liability of Cheong Koon Sing for the bills, or whether they merely intended to take a security additional to that liability. It is evident that this is in the main a question of fact, and it will be gathered from what I have already said that there was no intention on the part of the Bank to release the liability of Cheong Koon Sing and to accept a further or additional security in lieu of it. I think that what the Bank really did was to agree to have recourse to any margin available on Kan Sing Toi's account as an additional security to the claim which they already had against Cheong Koon Sing, and that such recourse was not by way of substitution for that claim. And it is clear that the taking of security which is merely additional to, and not in lieu of, that originally taken from the debtor will not discharge the surety. It was said by North, J., in *Clarke v. Brierley*, 4 C.D. 437, "It has never been held that the mere acceptance of additional security, unaccompanied by a contract to give further time, would produce the result of releasing the surety." And in the case of *Rouse v. The Bradford Banking Company, Limited*, 70 D.L.R. 430, Laidlaw, L.J., made the following remarks:—"The question whether a creditor of two or more persons has released one of them and converted the others into his sole debtors by what is called novation is a question of intention, and an intention to look to them for payment, especially when requested to do so by their co-debtor, is quite consistent with an intention to look to them as a mere matter of convenience without releasing him. To succeed on this ground, what the plaintiff [the surety in that case] has to show is conduct inconsistent with a continuance of his liability, from which conduct an agreement to release him may be inferred. Dealing with the new firm and treating them as debtors, and proving against their estate, is quite consistent with not releasing the plaintiff."

It follows from these observations on the law of the case that, in my opinion, the defence has failed and the plaintiffs are therefore entitled to judgment. The question then is for what amount that judgment is to be entered. The plaintiffs contend that they are entitled to have judgment for \$100,000, being the full amount secured to them by the bond, while the defendants on their side submit that, if the accounts are carefully examined, it will be found that the plaintiffs are indebted to Cheong Koon Sing and not Cheong Koon Sing to them. Then there have been dealings between the Bank and Cheong Koon Sing subsequent to the 22nd September, 1894, especially with respect to the Saigon property, and it was admitted by Mr. Francis that there should be a reference for adjustment of the accounts between the parties subsequent to that date. But the accounts are somewhat complicated, and I think it will be more convenient that the matter should go before the Registrar in order that he may examine them and certify the amount for which judgment is to be entered and execution issued. But, in order to save time, it is desirable that I should express, for the guidance of the Registrar, my opinion upon various items of claim which are in controversy between the parties and also upon some other points.

To take the disputed items in order, I understood at the hearing that the plaintiffs abandoned any claim to compound interest. Then, as regards simple interest, it was held by the Court of Exchequer in *Ackermann v. Druce*, 16 M. & W. 99, that "a party who guarantees the payment of a bill is liable for all that the principal would be liable for," including the payment of interest on the bill, if overdue. I think, therefore, that Cheong Koon Sing, and consequently the defendants, are liable for the payment of interest on the bills as from the date of their maturity. This question of interest is regulated by sec. 57 of the Bills of Exchange Ordinance, 1895. It appears from this enactment that the plaintiff is not entitled to claim, as they do, both interest and exchange, and they must elect on which of these claims they will proceed before the Registrar. It will be seen also from the terms of the enactment that the expenses of noting and protesting are in the same position on this point as the interest.

It was contended by the defendants that the plaintiffs had accepted the Saigon property, a promissory note for Ts. 10,000, and certain shares as equivalent to cash, and that Cheong Koon Sing's indebtedness was thereby discharged. I think, however, that they did not accept it in this contention, and that the plaintiffs should only be debited, in respect of these items, with the amounts which they have realised or, with reasonable diligence, ought to have realised. Any securities not yet realised the plaintiffs must either surrender to Cheong Koon Sing, or as his assignor, or take over absolutely at a valuation to be made by the Registrar.

All reasonable costs and expenses incurred by the plaintiffs in realising the securities, or in keeping alive securities delivered to them by Cheong Koon Sing are to be allowed. The accounts are to be taken as on the 22nd September, 1894. All entries relating to the subject-matter of the suit made prior to that date in the plaintiffs' books, in the ordinary course of business, are to be deemed binding on the defendants, subject to exception on the ground of fraud or evident mistake. Judgments are to be entered for the amount found to be due to them on the basis of the accounts, and the total amount is not to exceed \$100,000, interest at the rate of eight per cent. per annum is to be payable on the principal sum adjudged from the date of the commencement of the suit to the date of judgment.

The taking of the accounts will extend to the dealings of the parties subsequent to the 22nd September, 1894. If this account results in a reduction of the amount for which judgment is enforced, interest will abate and execution be issued for a lesser sum, accordingly.

If any difficulty arises in settling the accounts, either party is to be at liberty to apply in Chambers for directions.

Reference was not made at the hearing to that portion of the prayer of the plaintiffs' petition which asks for an order for the sale of the premises mortgaged by Cheong Kai to the Bank and the application of the proceeds in payment of the claim, and as I feel some difficulty on one or two points connected with the making of such an order, I will reserve liberty to do so at a later date.

The plaintiffs will have the costs of suit, including the costs of and incidental to the application made by the defendants for the issue of a commission. This order is, of course, without prejudice to the order made by the Court with reference to the costs of the former trial.

Throughout this judgment I have used the terms "the Bank" and "the plaintiffs" in reference to the original plaintiff bank, but it is to be understood that the judgments and execution are for the benefit of the Bank of China and Japan, Limited, who are now the real plaintiffs in the case.

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SUPPLEMENT
TO THE
"HONGKONG TELEGRAPH"
OF THE 16TH DECEMBER, 1895.

SUPREME COURT.

21st December.

IN ORIGINAL JURISDICTION.

BEFORE HIS HONOUR DR. CARRINGTON
(CHIEF JUSTICE).

THE BANK OF CHINA, JAPAN, AND THE
STRAITS LIMITED, v. CHEONG KOO SING, TAI,
CHONG YAU KUNG, AND LAM SHI.

The plaintiffs sought to recover \$100,000, a
debt due on a bond.

Mr. J. J. Francis, Q.C., and Mr. E. E.
Pollock (instructed by Messrs. Johnson, Stokes,
and Master) appeared for the plaintiffs, and
Mr. W. V. Drummond, Mr. E. Robinson, and
the Hon. Ho Kai (instructed by Mr. Denry) appeared
for the defendants.

The hearing of the case commenced on the
9th October last and lasted six days.
His Lordship delivered the following written
judgment—

The writ of summons in this suit was issued
on the 10th Sept., 1894. It stated that
the defendants were sued as executors and
administrators of Cheong Kai, deceased, and it was
specially endorsed, under section 13 of the
Code of Civil Procedure, with a claim for
\$100,000, being the amount due under the joint
and several bond of one Cheong Koon Sing and
the said Cheong Kai, deceased, to the plaintiff
Bank, dated the 25th August, 1891, and con-
ditioned for payment of the sum of \$100,000 on
demand being made by the said Cheong Koon
Sing to perform and observe the duties, obli-
gations, matters, and things contained in the said
bond. There was also a claim to have the
estate of Cheong Kai administered, but this
was not followed up in the petition of the
plaintiffs. Nor do the plaintiffs appear to have
taken any further steps by way of having their
claim dealt with under the above-mentioned pro-
visions of law relating to specially endorsed writs.

The petition was filed on the 20th October,
1894. It set forth that the plaintiff bank was
a limited company carrying on the business of a
bank in Victoria and at other places in the
East; that, at the request of Cheong Kai, the
plaintiff Bank, on the 25th August, 1891,
engaged his brother Cheong Koon Sing as
comprador of the Bank; and that, in consid-
eration thereof, Cheong Kai agreed to become
surety to the plaintiff bank to the extent of
\$100,000 for the due performance by Cheong
Koon Sing of his duties and obligations as such
comprador; that upon the same date Cheong
Koon Sing wrote a letter of agreement to the
plaintiff bank in which he specified the terms
upon which he had been engaged and his duties
and obligations as comprador; and that Cheong
Kai signed at the foot of this letter a declara-
tion whereby he approved of the letter and
declared himself liable as surety for the per-
formance by Cheong Koon Sing and his em-
ployees of his and their obligations under the
letter and under a bond annexed thereto; that
this bond was executed on the same date by
Cheong Koon Sing and Cheong Kai jointly
and severally bound themselves, their executors
and administrators, to the plaintiff bank, and
that one of the conditions of the bond was
that "if the said Cheong Koon Sing or his
employees in the Bank should be and remain
responsible for and pay on the days when the
same should fall due all Chinese bank notes,
bills, drafts, promissory notes, and orders and
other securities which might thereafter be
received or purchased by the said Cheong Koon
Sing or by any of the said employees or by the
plaintiff bank with the knowledge and consent
of the said Cheong Koon Sing, or with such
knowledge and consent through any of the
said employees, then the said bond should be
void and of no effect, but otherwise should be
valid and remain in full force and virtue; and
that upon the same date Cheong Kai deposited
with the plaintiff bank as collateral security the
title deeds of certain leasehold property situate
in Victoria, and by indenture charged all his
interest in that property with the payment of
all sums of money, not exceeding \$100,000,
which should become payable by Cheong Koon
Sing to the plaintiff bank under the letter of
agreement or bond, and also with the pay-
ment of all losses, damages, and expenses which
should be incurred or sustained by the plaintiff
bank under the letter of agreement or bond,
such sums of money, losses, damages, and ex-
penses not exceeding in the whole the sum of
\$100,000." The petition then proceeded to
allege that in the months of February and
March, 1892, the plaintiff bank pur-
chased through Cheong Koon Sing, at com-
pensation from Chinese banks in Hongkong, eleven
bills or drafts drawn on Shanghai; that these
bills or drafts were dishonoured, involving a
loss to the plaintiff bank of \$299,105.29 for
principal and interest, loss on exchange and re-
exchange, and expenses of noting and pro-
testing and otherwise; that on the 8th March,
1892, the plaintiff bank lent, through Cheong
Koon Sing, to a Chinese bank on its promissory
note the sum of \$10,000, but the note on being
presented was not paid; that Cheong Koon Sing
had repaid to or recovered for the plaintiff bank
the sum of \$148,824.37 on account of these losses,
leaving a balance of \$161,444.38 still owing by
him to the plaintiff bank, which he had refused
to pay; and that the defendants, on application
made to them for that purpose, had also refused
to pay this balance. The petition concluded
with the prayer that the defendants might be
declared indebted to the plaintiff bank in the
sum of \$100,000 and be ordered to pay it out of
the estate of Cheong Kai, with interest thereon
at 3 per cent. per annum from the 10th Sep-
tember, 1894, and that the property mortgaged
by Cheong Kai to the plaintiff bank might be
ordered to be sold and the proceeds applied in pay-
ment of the amount due to the Bank.

By their answer, which was filed on the 16th
Nov., 1894, the defendants admitted the writ-
ing of the letter of agreement and the execution
of the bond by Cheong Koon Sing and Cheong Kai.
They also admitted the purchase and dishonour
of the bills and the non-payment of the prom-
issory note given to the plaintiff bank for the
loan of \$10,000, but they denied that Cheong
Koon Sing was responsible for interest or was
liable to pay more than the actual loss sustained
by the plaintiff bank on the bills. They stated
that on the 31st May, 1892, by an agreement
made between the plaintiff bank and Kan Sing
Toi, a customer of the Bank, the account of
Kan Sing Toi with the Bank was debited with a
sum of \$97,222.23, being the amount due in
respect of the dishonoured bills; that Cheong
Koon Sing had no responsibility in respect of
this account, which was commenced before he
became comprador to the plaintiff bank; that
the securities held by the plaintiff bank on this
account were more than sufficient to cover the
sum of \$97,222.23; and that the plaintiff Bank
released Cheong Kai from all liability in re-
spect of the sum of \$97,222.23 by debiting the

account of Kan Sing Toi with that amount, and
this showing the intention to make Kan Sing
Toi responsible for and to obtain payment
of the deficiency on the bills from him in-
stead of Cheong Koon Sing or Cheong Kai. By
an amendment of their answer made pursuant
to an order of the Court, on the 10th August,
1895, the defendants enlarged their defence
on this point by stating that "by an agree-
ment made subsequent to the 25th August, 1891,
with Kan Sing Toi by the plaintiff bank, at
the request of Cheong Koon Sing and without
the consent or knowledge of Cheong Kai, to
debit the account of Kan Sing Toi with the sum
of \$97,222.23, the plaintiff bank took a sub-
stituted security, and thus discharged Cheong Kai
from all liability;" that "the agreement made
with Kan Sing Toi by the plaintiff bank, at the
request of Cheong Koon Sing and without
the consent or knowledge of Cheong Kai, was an
arrangement which materially affected the po-
sition of Cheong Kai, and discharged Cheong
Kai from all liability;" and that "the agree-
ment made with Kan Sing Toi by the plaintiff
bank, at the request of Cheong Koon Sing and
without the consent or knowledge of Cheong
Kai, was an agreement in effect giving time to
Cheong Koon Sing by an implied agreement and
discharged Cheong Kai from all liability." The
answer then proceeded to specify several sums of
money which the defendants submitted should
have been credited by the plaintiff bank to Cheong
Koon Sing—but which I need not at present
specially mention—and it concluded by stating
that, according to the true state of the accounts
between them, the plaintiff bank was indebted
to Cheong Koon Sing, and that the defend-
ants were not indebted to the plaintiff bank
under the bond or indenture of charge dated
the 25th August, 1891.

On the 18th July, 1895, the plaintiffs, having ob-
tained leave of the Court for that purpose, filed a
reply to the defendants' answer. The reply
stated that Kan Sing Toi was a partner in
and manager of the Wing Tung Yan Bank and
a partner in the Kwong Fuk bank; that he
was thus personally liable to the plaintiff Bank
and to Cheong Koon Sing for the sum of
\$97,222.23, being the amount of the bills pur-
chased by the plaintiff bank from these banks;
that, at the request of Cheong Koon Sing and
with the consent of Kan Sing Toi, the plaintiff
bank debited the account of Kan Sing Toi with
that amount in order that if at any time, by
the realization of the shares and securities held
by the plaintiff bank in respect of that account,
there was left any margin to the credit of Kan
Sing Toi over and above his debt to the plaintiff
bank on that account, it might be applied
in reduction of his liability on the bills and of
the liability of Cheong Koon Sing; and that
Cheong Koon Sing agreed that his liability to
the plaintiff bank in respect of the bills should
not be released or in any way diminished by
reason of Kan Sing Toi being so debited. The
reply then dealt with the allegations of the
answer that certain sums should have been
credited to Cheong Koon Sing, and it con-
cluded with the statements that, upon the true
state of the accounts, Cheong Koon Sing was
still indebted to the plaintiff bank in the sum
of \$161,444.38; that any securities which the
plaintiff bank held in respect of that debt
would, upon payment of it, be transferred to
Cheong Koon Sing or as he should appoint;
and that the defendants, as executors of Cheong
Kai, were indebted to the plaintiff bank in the
sum of \$100,000, part of the said sum of
\$161,444.38, and for interest thereon. It is to be
observed that the answer of the defendants
amended by stating in various ways the effect
of the arrangement made between the plaintiff
bank and Kan Sing Toi after the filing of the
reply, and therefore the replication does
not deal with those amendments.

This is the substance of the pleadings between
the parties. There was no settlement of issues,
but I think it will be apparent from a perusal
of the pleadings that the principal question in
controversy between the parties was as to the
effect of the agreement made between the
plaintiff bank and Kan Sing Toi upon the li-
ability of Cheong Koon Sing and therefore
upon the position of Cheong Kai as his surety.
Accordingly at the hearing the contest, both
as regards evidence and argument, was mainly
centred round this point.

On these pleadings the cause was heard be-
fore Sir Fielding Clarke, the late Chief Justice,
on the second and third days of September,
1895. It then appeared from the evidence of
Mr. Darby, the accountant, and Mr. Imbuhl,
the manager of the Bank, that the state of the
accounts of the Bank at the time the case was
brought on and its assets, rights, and liabilities (including
all its rights in respect of the matters in con-
troversy in this suit) assigned to a new com-
pany called "The Bank of China and Japan,
Limited." It was accordingly ordered that,
on the application of the plaintiffs, the further
hearing should be adjourned sine die, and that
the plaintiffs should have leave to amend their
petition by stating therein the assignment
of rights to the new Bank. This was accord-
ingly done, and the defendants amended their
answer by adding a paragraph in denial of the
alleged assignment and of the right of the Bank
of China and Japan Limited, to carry on and
continue the suit in the name of the plaintiff
bank. It may at once, however, be said that
this denial was not followed up, and that the
fact of the assignment was sufficiently proved
by an affidavit of Mr. Campbell, the liquidator
of the plaintiff bank, which the plaintiffs had
obtained leave of the Court to use at the hear-
ing. For the sake of convenience, therefore, I
will henceforward be used to de-
note the plaintiff bank.

The cause came on for hearing before me on
the 8th October last, when it was agreed by
the parties that it would be more convenient
that it should be entirely re-heard, and this was
accordingly done. The hearing lasted six days,
and the case was conducted with much ability
by counsel on both sides.

The evidence consisted on the part of the
plaintiffs of the affidavit of Mr. Campbell
already mentioned, and of the de bene esse
examination of Mr. Darby, the accountant,
of the Bank, taken before the Registrar in the
first of the defendants, Cheong Koon Sing, was
examined and cross-examined at considerable
length. A number of documents were pro-
duced in evidence by Mr. Darby, and Cheong
Koon Sing respectively. The evidence on the
one side and on the other is conflicting in many
aspects, and especially with regard to the
nature and incidents of the arrangement made
between the Bank and Kan Sing Toi. I
propose to state the substance of the evidence
and to set forth the reasons which have weighed
with me in arriving at the version of facts which
I have adopted.

The Bank had formerly been a trust and
loan agency under the name of "The Trust
and Loan Company of China, Japan, and the

Straits, Limited." In 1891 the com-
pany was converted into a bank under the
name of the Bank of China, Japan, and the
Straits, Limited. Mr. Darby joined the Bank
as accountant about the time of its establish-
ment, and Mr. Imbuhl became manager ap-
proximately in the early part of 1892. Until
August, 1891, the Bank had no compradors,
but on the first day of that month they engaged the
services of Cheong Koon Sing as comprador, and
his elder brother, Cheong Kai, became surety for
him. Cheong Kai had been the comprador of the
Hongkong Club, and was apparently possessed
of considerable property. On the 25th August,
1891, Cheong Koon Sing and Cheong Kai
signed the letter of agreement and executed the
bond mentioned in the petition. The bond
contained a clause reserving the right to Cheong
Koon Sing and Cheong Kai, or either of them,
to determine on giving to the obligees at least
one month's notice in writing of their intention to
do so. On the same day Cheong Kai executed the
indenture of charge and mortgage men-
tioned in the petition.

No question arose between the Bank and
Cheong Koon Sing for some months after he
had entered on the performance of his duties,
and indeed it may here be said that Mr. Darby
speaks of him generally as having dis-
charged his duties. The satisfaction of the
Bank in the month of February and March,
1892, the Bank purchased from five
Chinese banks in this colony, through and on
the recommendation of Cheong Koon Sing,
eleven bills or drafts on Chinese banks and
firms at Shanghai. One of these bills was
subsequently paid in Hongkong and it is there-
fore unnecessary to take further account of
it. The remaining ten bills were drawn by
the banks on the dates and for the amounts
mentioned below. They were in the English
language. The first of the bills was drawn in
favour of the Bank, but the remaining nine
were drawn in favour of Cheong Koon Sing
and endorsed by him to the Bank. This was done
by direction of Mr. Imbuhl, in order to prevent
any question arising as to whether the bills had
or had not passed through the hands of Cheong
Koon Sing.

	Ten Shing	Ten Shing
Wing Tung Yan	25th Feb., 1892	20,000
Do	15th March, 1892	20,000
Kwan Yu	27th Feb., 1892	10,000
Do	7th March, 1892	10,000
Kung Tai	1st March, 1892	20,000
Do	1st March, 1892	20,000
Kwong Fuk	24th March, 1892	20,000
Do	12th March, 1892	20,000
Do	14th March, 1892	10,000
		Ten 170,000

Beside these bills the Bank also, through and
on the recommendation of Cheong Koon Sing,
on the 8th March, 1892, advanced a sum of
\$10,000 to the Kwan Yu Bank, taking its
promissory note for that amount. The total
amount disbursed by the Bank for these
bills and note was \$244,067.23.

At the time of these transactions there was
in the colony a man named Lo Hok Pang, who
was the comprador of the Hongkong and
Shanghai Banking Corporation. He was a
prominent and influential member of the Chi-
nese community, and was reputed to be
possessed of great wealth. He was a partner
in all the five banks mentioned above, except
the Ten Shing. There was also at the same
time another Chinaman named Kan Sing Toi,
who was regarded by the Chinese as a man
of considerable financial status. He was a part-
ner in two of the above-mentioned banks,
namely, the Wing Tung Yan and the Kwong
Fuk, and was also the manager of the former
bank. His name appeared on the two bills of
the Wing Tung Yan Bank as one of the
parties to them. He had a private advance
account with the Bank, and was in the habit
of depositing certain sums of money in com-
pensation and other securities to cover the advance
made to him on that account. This account
was in existence before Cheong Koon Sing
became comprador to the Bank, and it is ad-
mitted that he had no connexion with or
responsibility for it. It was the custom of the
Bank to make a valuation of the securities held
by them on this account at the close of each
month, and to send a copy of it to the head
office in London. On the 26th February, 1892,
Kan Sing Toi's indebtedness to the Bank on
this account was \$597,844.32 and the securities
valued at \$687,844.00. There was, there-
fore, on that date a surplus or margin in his
favour of \$88,801.78.

Apparently without any warning, in March,
1892, a crisis of a grave character arose among
the Chinese banks and firms in Hongkong and
Shanghai. The crisis seems to have been im-
mediately brought about by the disappearance
from the colony of Lo Hok Pang. This event
took place on the 28th March, 1892. Cheong
Koon Sing heard of it on the morning of the
following day, the 29th March, 1892, and he
seems to have at once suspended his business
with the Bank, and the banks which had drawn
the bills and made the promissory note would
suspend payment and that he and his surety
might thereby become involved to a very large
extent. He accordingly spent the morning in
making visits to the banks concerned—which,
although the day was Sunday, were, in ac-
cordance with Chinese custom, open for business—
with a view of ascertaining from their manag-
ing partners what were their chances of tidying over
the crisis and especially how they proposed to
meet their liabilities to himself and the Bank.
According to his account, he received from
the Ten Shing, Kwan Yu, and Kung Tai
Banks assurances that their position was not
endangered or at any rate not made de-
perate, and, what was more to the point,
contributions of Chinese promissory notes
and other securities to enable him to
meet in part their engagements, on which he was
also liable. He obtained from the Ten Shing
Bank a promissory note for Tls. 10,000 man-
ning, that is, for \$2,000, and from the Kwan Yu
and Kung Tai Banks an assignment of a property
in Saigon; and from the Kung Tai Bank 500
shares in the plaintiff bank. He was not suc-
cessful in his application to the Wing Tung
Yan and Kwong Fuk Banks—in the case of the
former because he was not able to find the
managing partner, Kan Sing Toi, at the office
of the bank. He was asked in cross-examina-
tion why, when he did not find Kan Sing Toi,
he did not go to Kan Sing Toi's house, and he did
not seek him at his house, and he said in answer
that he did not know where he lived and that it
would have been improper, according to Chinese
ideas of etiquette, for him to make inquiries on
the subject. It is to be remembered that the
bills of the two banks in which Kan Sing Toi
was interested represented a sum of Tls. 70,000
or \$7,000 in local currency, and there can
be no doubt that Cheong Koon Sing was very
anxious to come to some understanding with

settlement with Kan Sing Toi in order to pre-
vent himself.

About 2 p.m. on that Sunday, he went to the
office of Mr. Darby and told him of what
had occurred, and the two of them went to the
office of the Bank, arriving there between 2.30
and 3 p.m. No doubt he went to Mr. Darby
instead of Mr. Imbuhl because the latter
gentleman had only recently assumed the
management of the Bank, while the former
had been employed as its accountant for some
time. Mr. Darby states that he had "a long
interview" on the day in question with Cheong
Koon Sing. But it does not appear that any-
thing material was said or done until Kan Sing
Toi arrived at the Bank. He was fetched
thither by Cheong Koon Sing at the instance,
as Cheong Koon Sing says, of Mr. Darby. It
is unfortunate that the only witnesses who have
given evidence as to the conversation, which
then took place, are Mr. Darby and Cheong
Koon Sing. They are both interested wit-
nesses, but no doubt Cheong Koon Sing had a
much more direct and real interest in inducing
the Court to accept his version of the transac-
tion than Mr. Darby can have on his side. If
any case their statements as to what took place
with regard to this matter of vital importance
are in conflict with one another, and I have to
determine for myself which of them I will
believe. In forming an opinion on this point
it is necessary to have regard to the relative
truthfulness of the two men as I conceive of it,
to the inherent probabilities of the matter, and to
the subsequent conduct of the parties concerned.

Let us consider first Mr. Darby's version
of the conversation and what was done in
the course of it. In his examination-in-chief
he does not give any details of the conversation,
but merely speaks of the documents which were
written at the interview and to which I will
presently refer. In cross-examination he makes
the following statement:—"During the inter-
view with Kan Sing Toi and the comprador
and myself, I do not remember the comprador
taking me aside. I cannot swear positively
either way. It is five years ago nearly. I do
not remember the comprador having asked me
to get Kan Sing Toi to pledge his margin on
his share account against any possible loss on
the Wing Tung Yan and the Kwong Fuk bills.
I don't remember whether the comprador in-
quired of me during that interview whether
Kan Sing Toi had a good margin on his
loan account. I know something was said
about the margin on Kan Sing Toi's account
during that interview. I think I brought up
the matter—I cannot swear." Evidence of this
kind is not very satisfactory from the point of
view of clearness and definiteness, but at any
rate it shows that Mr. Darby would not force
his memory to testify in favour of the Bank's
position in this case. In re-examination he
affirms that he never gave Cheong Koon Sing
to understand, either directly or indirectly, that
the debiting of Kan Sing Toi's account with
the value of the four bills of the Kwong Fuk
and Wing Tung Yan Banks would diminish
his liability in any way. There is no further
evidence obtained by direct enquiry from Mr.
Darby with regard to the terms of the con-
versation otherwise than as relating to the
documents already mentioned. With regard to
these documents Mr. Darby says that "he pre-
pared two documents for Kan Sing Toi's
signature." The first document was in the
following terms—

The Manager, the Bank of China, Japan, and the Straits,
Limited, Hongkong.

Dear Sir, With regard to all acceptances in the pos-
session of your Bank on this date, drawn by the Kwong
Fuk Bank or Wing Tung Yan Bank of Hongkong on
Yuen Loong Shanghai, I hereby guarantee that same
shall be paid at maturity, and I hereby authorize you to
retain any margin there is, or may be, on my account
with your Bank, to liquidate any debt which may be
owing to you through the default of above banks or firms
to protect such acceptances.

It may be noted that this letter is wrongly
dated the 28th instead of the 27th March.

This letter Kan Sing Toi declined to sign, and
Mr. Darby says that the reason which he
gave for this refusal was that "it included the
Wing Tung Yan Bank, which at that moment
had not closed its doors." Mr. Darby there-
upon wrote another letter of the same purport,
with the exception that the name of the Wing
Tung Yan Bank does not appear in it. This
letter also Kan Sing Toi declined to sign, for
the reason, as stated by Mr. Darby, that it was
in English and he could not understand English.
Kan Sing Toi then wrote and gave to Mr.
Darby a Chinese document, of which the follow-
ing is a translation—

If Kwong Fuk Bank are indebted to Wing
Tung & Co. (Bank of China, Japan and the
Straits) for any money on account of drafts, I am
willing to allow the margin margin of all my
shares I have pledged in the Wing Tung Bank
to be deducted (set off). There shall be no
discussion to the contrary and nothing further.

Kwong Fuk, 15th year, 2nd moon, 28th day
(27th March, 1892).

(8d.) KWAN SING TOI.

Cheong Koon Sing's account of the conver-
sation at the interview is fuller and more precise.
It is in substance to the effect that Kan Sing
Toi was angry at his pressing him as to how he
proposed to meet the bills amounting to Tls.
70,000, of the two Banks, that he (Kan Sing
Toi) then said to Mr. Darby that he had got
"too much share inside the Bank" and had
"got a margin too," and that he (Mr. Darby)
could "put his account," and that Mr. Darby
nodded his head. He says he then took Mr.
Darby aside and asked him whether Kan Sing
Toi had share in the Bank and had a margin
also, and Mr. Darby said "Yes, he had plenty."
He proceeds to say that Mr. Darby then wrote
a paper in English and offered it to Kan Sing
Toi to sign; but he refused to sign it on the
ground that he did not understand English;
that Mr. Darby wrote a second
paper in English and offered it to Kan
Sing Toi to sign, but he refused to sign that
also, alleging the same reasons for his refusal,
and that Kan Sing Toi then wrote and delivered
to Mr. Darby the Chinese document, of which a
translation has been set out above. He states
that, on Mr. Darby's asking him to translate
the document, he explained to Mr. Darby that
only the name of the Kwong Fuk appeared in it
and the name of the Wing Tung Yan was absent;
whereupon Kan Sing Toi explained that he was
the manager and sole agent of the Wing Tung
Yan; that he had put his name on the two bills
of that bank; and that it was therefore nec-
essary for him to put the name of that bank
in the document. He adds that he asked Kan
Sing Toi to "pay," (meaning, apparently, to
"hand over") some Chinese promissory notes
which he had with him; that Kan Sing Toi
pulled out twenty or thirty such notes, for sum-
amounting to about \$100,000, and handed them
to Mr. Darby; and that the latter declined to
take them. Then he says he explained the
contents of the Chinese document in plain

English to Mr. Darby, and Mr. Darby then
called him aside and said to him, "Kan Sing
Toi, pig-dog finish, alright, don't you worry.
You go other bank; you do your best." Then
he says he went away, leaving Mr. Darby and
Kan Sing Toi together. His evidence proceeds
as follows:—"After the interview I took no
steps to get securities from the Kwong Fuk or
the Wing Tung Yan Banks; I thought the
matter was settled. Mr. Darby, Kan Sing Toi,
and I had agreed that Kan Sing Toi's share
account should have entered in it the liabilities
of the Kwong Fuk and the Wing Tung Yan
on the four bills. I took no further steps
after this with regard to the four bills of these
two banks. After this interview I took further
steps about the other three banks and recovered
money and securities from them."

This evidence was given in his examination-
in-chief. In his cross-examination he said that
Kan Sing Toi "agreed that his share in the
hands of the plaintiff bank should be used to
meet his liabilities in respect of the Wing Tung
Yan, but he said there was no need to put it in
writing, and he mentioned both the Kwong
Fuk and Wing Tung Yan, the liability in
respect of both being Tls. 70,000." With re-
gard to the two letters written by Mr. Darby
for Kan Sing Toi to sign, he says that the
only reason which Kan Sing Toi gave for not
signing the first letter was that it was in En-
glish and he could not understand it, and he is
unable to explain why Mr. Darby should, under
those circumstances, have written and tendered
a second letter in English.

These are the two versions before the Court
of this important conversation. They are
clearly not consistent with one another. Ac-
cording to Mr. Darby, the effect of that
conversation was that Kan Sing Toi agreed to
give the Bank for the sake of convenience and
by way of additional security, a ready resource
to any margin or balance on his private account
to cover any losses occasioned to the Bank by
the dishonouring of the Kwong Fuk bills. He
was asked nothing in cross-examination as to
his having, at the time and on account of
accepting this additional security, released
Cheong Koon Sing from liability in respect of
the bills of the two banks in question or
either of them.

On the other hand Cheong Koon Sing's
version is to the effect that Mr. Darby
expressly released him from further liability in
respect of these bills, and agreed to accept the
right of apportionment given by Kan Sing Toi
in lieu of that liability.

Of these two discordant versions I believe
that given by Mr. Darby as against that given
by Cheong Koon Sing, and I propose to state
briefly the reasons which have weighed with me
in arriving at this conclusion. In the first
place, I have formed the opinion that Mr.
Darby is a more truthful and candid witness
than Cheong Koon Sing. It is true that I
did not have an opportunity of seeing Mr.
Darby under examination, but the Registrar,
before whom he was examined *de bene esse*, in-
forms me that, although his memory seemed
to be pretty often at fault, yet he gave his evidence
in an apparently truthful manner. His evidence
reads as that of a man not in any way desiring
to strain the truth. But I cannot say that I
was favourably impressed with Cheong Koon
Sing as a witness. He appeared to me to be an
exceedingly astute and intelligent man who
carefully weighed his answers to the questions
put to him and was anxious that they should
accord with the case put forward for the de-
fence. His evidence was given in cross-ex-
amination, and I am inclined to think that he
knew English sufficiently well to be able, gener-
ally speaking, to know what the question was
before it was interpreted to him. I have already
adverted to the subject of the relative interest
of the two witnesses in the result of the suit.
Then, to come to the subject-matter of the
agreement as alleged by Cheong Koon Sing, it
may be asked why should Mr. Darby have made
such an agreement? It is not disputed that
Kan Sing Toi was expressly liable on the
Wing Tung Yan bills as a party to them, and
ultimately liable on the Kwong Fuk bills as a
partner in that bank. Why then should Mr.
Darby, merely for the sake of the Bank being
granted an easy way of bringing home this
liability, surrender its right to call on Cheong
Koon Sing to make good the losses in respect
of those two banks? In answering this ques-
tion we must remember that the margin made
available under the alleged agreement was, at
the last valuation of the securities, nearly
\$80,000 short of the required amount, and also
that Mr. Darby must have known that the
value of the shares held by the Bank was
probably fallen in consequence of the financial
crisis. Again, it is easy to understand that
Mr. Darby should conclude such an arrange-
ment as that described by himself without
reference to Mr. Imbuhl, but it is far
from being easy to understand how he could
make such an arrangement as that alleged by
Cheong Koon Sing without such a reference.

It may also be pointed out that, as regards the
documents written at the interview, the internal
evidence supplied by the documents themselves
is more consistent with the version given by
Mr. Darby than with that told by Cheong Koon
Sing. Why, for instance, should Kan Sing
Toi have given, at one and the same time, an
express permission in writing in the case of the
Kwong Fuk bills and only a verbal permission
in the case of the Wing Tung Yan bills? I
have already referred to the absence of cross-
examination of Mr. Darby with respect to the
alleged agreement. It is true that Mr. Darby
was asked whether Cheong Koon Sing took him
aside at the interview, but I do not understand
why this question was not followed by the
more material question whether he spoke to
Cheong Koon Sing the words which are set up
as an express release of the latter's liability. It
was further observed by Mr. Francis that the
defendants' answer did not set forth any express
release or indeed any specific agreement at all
between Mr. Darby and Cheong Koon Sing,
and it is difficult to conceive how or why Cheong
Koon Sing should not have furnished them
with information on this point at any rate in
time for the framing of the amended para-
graphs of the answer, which were not filed until
the 10th August, 1895. It may be de-
scribed in this connection that in one of these
amended paragraphs as it originally stood the
defendants alleged that "the plaintiff bank
took an additional security from Cheong Koon
Sing and thus discharged Cheong Kai from all
liability," and that at the hearing, at Mr.
Darby's request, the words "a substituted
security" were inserted in lieu of the words
"an additional security" from Cheong Koon
Sing." As a last reason which has influenced
my mind in deciding this question of the rela-
tive truthfulness of these witnesses, I may say
that the evidence of Mr. Darby as to what was
said and done at the interview of the 27th
March, 1892, is borne out by the subsequent